

Chapter 180

Landmarks Preservation

[**HISTORY:** Adopted by the City Council of the City of Glen Cove 8-25-1981 by L.L. No. 1-1981 as Ch. 38 of the 1981 Code. Amendments noted where applicable.]

Article I

General Provisions

§ 180-1 Title.

This chapter shall be known and may be cited as the "Landmarks Preservation Ordinance of the City of Glen Cove, New York."

§ 180-2 Declaration of purpose and policy.

A. The City Council of the City of Glen Cove hereby finds:

- (1) That there exists in the City of Glen Cove places, sites, structures and buildings of special historic significance or which by reason of famous events or the antiquity or uniqueness of architectural construction and design are of particular significance to the education, culture, tradition and economic values of the City.
- (2) That the conservation, protection and preservation of such places, sites, structures and buildings is a public necessity in harmony with the Comprehensive City Plan and bears a substantial relation to the public health, safety and general welfare.
- (3) That a number of historic buildings and sites have been demolished or significantly altered without affording the City government, interested persons or historical organizations an opportunity to acquire or arrange for the protection or preservation of such buildings or sites. Such demolitions or alterations have a detrimental effect on cultural, historic and economic values in the City.

B. The City Council hereby declares that the purpose of this chapter is to conserve, protect and preserve, landmarks, sites, structures, buildings, and historic districts in order to promote the cultural, economic and general welfare of the public. [Amended 3-22-2022]

Article II

Terminology

§ 180-3 Definitions.

As used in this chapter, unless the context or subject matter otherwise requires, the following definitions shall have the following meanings:

ALTERATION

Any act or process which changes one or more of the exterior architectural features of a structure designated as a landmark or any structure or building in an historic district.

BUILDING or STRUCTURE

Any combination of materials forming any construction other than a boundary wall or fence; the term "building" shall include the term "structure."

DIRECTOR OF THE BUILDING DEPARTMENT

The Director of the Building Department of the City of Glen Cove (DBD).

[Added 3-22-2022]

EXTERIOR ARCHITECTURAL FEATURES

The architectural style, design, general arrangement and components of all of the outer surfaces of any building or structure, including but not limited to the kind, color and texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to said building or structure.

HISTORIC DISTRICT

Any area which contains places, sites, structures or buildings which have a special character and ambiance or historical value or aesthetic interest and/or which represent one or more periods or styles of architecture of an era of history and which cause such area to constitute a distinct section of the City.

INTERIOR LANDMARK

The interior of a property which has special or aesthetic interest or value as part of the development, heritage or cultural characteristics the City.

LANDMARK

Any place, structure or building that has been designated as a landmark by the City Landmarks Preservation Commission, pursuant to procedures provided within this article, that is worthy of preservation, restoration or rehabilitation of historical value or aesthetic interest by reason of its antiquity or uniqueness of architectural design or as part of the development, heritage or cultural characteristics of the City, county, state or nation.

[Amended 3-22-2022]

LANDMARK AND HISTORIC DISTRICT MAP

A map to be prepared and maintained by the Building Department identifying the location of all landmarks, landmark sites and historic districts.

LANDMARK SITE

A parcel or part thereof on which is situated a landmark, and any abutting parcel or part thereof constituting part of the premises on which the landmark is situated.

PROTECTED STRUCTURE

Any place, structure or building, which because of its historical value or aesthetic interest by reason of its antiquity or uniqueness of architectural design or as part of the development, heritage or cultural characteristics of the City, county, state or nation, is being considered for landmark designation.

[Added 12-26-1990; amended 3-22-2022]

SCENIC LANDMARK

Scenic landmarks encompass structures that are not buildings; for example bridges, piers, parks, cemeteries, sidewalks, clocks and trees.

STYLES OF ARCHITECTURE

A style recognized by one of the following:

- A. The National Register of Historic Places.

- B. Historic American Buildings Survey.
- C. Historic American Engineering Record, United States Department of the Interior, National Park Service.
- D. Division for Historic Preservation, New York State Office of Parks and Recreation.
- E. Nassau County Museum.
- F. National Trust for Historic Preservation.
- G. Society of Architectural Historians.

Article III Landmarks Preservation Commission

[Amended 5-8-1990]

§ 180-4 Creation of the Landmarks Preservation Commission.

- A. There is hereby created a commission to be known as the "Glen Cove Landmarks Preservation Commission."
- B. The Commission shall consist of five members to be appointed by the Mayor with the consent of four members of the City Council, in conformance with the Code of Federal Regulations, 36 CFR Part 61, Appendix A. **[Amended 6-26-1990; 12-13-1994; 3-22-2022]**
- C. Among the membership, to the extent available in the community, there shall be the following:
[Amended 12-13-1994; 5-27-1997; 3-22-2022]
 - (1) At least one shall be a registered New York State architect.
 - (2) At least one shall be an architectural historian.
 - (3) At least one shall be an historian.
 - (4) A member of the City Planning Board.
 - (5) The City Historian.
- D. If membership vacancies cannot be filled in conformance with the professional qualification standards as stipulated in the Code of Federal Regulations, 36 CFR Part 61, Appendix A, appointments to the Commission shall then be limited to candidates who have demonstrated significant interest in, and commitment to, the field of historic preservation evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation or other serious interest in the field.

§ 180-5 Terms of office.

- A. Commission members shall serve for a term of three years, except for the initial term of one member who shall serve for one year, two members who shall serve for two years and two members who shall serve for three years. Members may serve for more than one term, and each member shall serve until the appointment of a successor. **[Amended 3-22-2022]**
- B. The members of the Commission shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties.

§ 180-6 Procedure for filling of vacancies.

Candidates for the Landmarks Preservation Commission shall be recruited to meet the minimum professional qualifications as described and mandated by the Code of Federal Regulations, 36 CFR Part 61, Appendix A, in the following manner:

- A. Timing. In the case of a vacancy occurring before the expiration of a term, the Mayor shall act as quickly as possible to fill the unexpired term.
- B. Public announcement. An announcement shall be prepared describing the responsibilities, qualifications, term of office and directions on whom to contact for further information.
- C. Member qualifications. Demonstrate interest, competence or knowledge of historic preservation and particular professional training and experience in the disciplines of history, architectural history, architecture, historic architecture and prehistoric/historic archaeology.
- D. Publicizing the announcement. The announcement should be advertised in the local official paper, posted at the public library and City Hall and on the City's website. Notice should also be sent to local historical and preservation organizations, the local chapter of the AIA and local institutions of secondary and higher education. **[Amended 3-22-2022]**
- E. Appointments. In selecting among the nominees, the Mayor shall weigh the qualifications and expertise of the nominees and of the current Landmarks Preservation Commission members with the aim of appointing professionals to represent all historic preservation disciplines, if possible.
- F. In the event of a vacancy occurring during the term of a member of the Landmarks Preservation Commission, the Mayor, as provided above, shall make an appointment to complete the unexpired term of such member, and where such member is required to have special qualifications, such vacancy shall be filled by appointment in the manner herein prescribed with a person having the same qualifications.

§ 180-7 Officers.
[Amended 3-22-2022]

The Mayor shall designate one of the members of the Landmarks Preservation Commission to serve as Chairperson. The remaining four members of the Commission may elect a Vice Chairperson from among their fellow members.

§ 180-8 Meetings.
[Amended 3-22-2022]

The Commission shall meet as circumstances may require but no less than once a year. Meetings may be held at any time upon written request of any two Commission members or upon the call of the Chairperson or the Mayor.

§ 180-9 Quorum.
[Amended 6-26-1990; 12-13-1994; 3-22-2022]

At least three members of the Commission shall constitute a quorum for the transaction of its business or the performance of its functions. The concurring vote of three members of the Commission shall be necessary for the adoption of any recommendations or other acts of the Landmarks Preservation Commission.

~~§ 180-10 Powers and duties of Commission.~~

~~The Landmarks Preservation Commission shall have the powers and duties granted herein.~~

- ~~A. Employment of staff and professional consultants as necessary to carry out the duties of the Commission. Any contract agreement to retain such consultants which involves the expenditure of City funds shall be subject to the approval of the City Council. **[Amended 6-26-1990]**~~
- ~~B. Promulgation of rules and regulation as necessary for the conduct of its business.~~
- ~~C. To provide advice and guidance to property owners and government agencies concerning historie~~

~~preservation issues.~~

- ~~D. Adoption of criteria for the identification of significant historic, architectural and cultural parks and for the delineation of historic districts.~~
- ~~E. Conduct surveys of significant historic, architectural and cultural landmarks and historic districts within the City of Glen Cove.~~
- ~~F. Recommendations to the City government of identified structures or resources as landmarks and historic districts.~~
- ~~G. Acceptance on behalf of the City government of the donation of facade easements and development rights; the making of recommendations to the City government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purpose of the Commission.~~
- ~~H. Increase public awareness of the value of historic, cultural and architectural preservation by developing and participation in public education programs.~~
- ~~I. Make recommendations to the City government concerning the utilization of state, federal, county or private funds to promote the preservation of landmarks and historic districts within the City.~~
- ~~J. Recommend acquisition of a landmark structure by the City government where its preservation is essential to the purpose of this chapter and where private preservation is not feasible.~~

§ 180-10 Powers and duties of Commission.

The Landmarks Preservation Commission shall have the powers and duties granted herein.

- A. Recommend to the City Council landmark and historic district designations to be adopted by local law and, from time to time, changes to such designations.
- B. Evaluate applications for a certificate of appropriateness proposing exterior changes to a designated landmark or property within a designated historic district and approve, approve with modifications or deny such applications.
- C. Evaluate applications for a certificate of economic hardship and certificates of appropriateness for demolition, removal or relocation of landmarks and approve, approve with modifications or deny such applications.
- D. Evaluate applications for ordinary maintenance and repair of historic resources, properties or landmarks, and approve, approve with modifications or deny such applications.
- E. Employment of staff and professional consultants as necessary to carry out the duties of the Commission. Any contract agreement to retain such consultants which involves the expenditure of city funds shall be subject to the approval of the City Council. [Amended 6-26-1990]
- F. Promulgation of rules and regulations as necessary for the conduct of its business.
- G. To provide advice and guidance to property owners and government agencies concerning historic preservation issues.
- H. Adoption of criteria for the identification of significant historic, architectural and cultural parks and for the delineation of historic districts.
- I. Conduct surveys of significant historic, architectural and cultural landmarks and historic districts

within the City of Glen Cove.

- J. Recommend to the City Council acceptance of donations of facade easements and development rights or other interests in real property as necessary to carry out the purpose of the Commission.
- K. Increase public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
- L. Make recommendations to the City Council concerning the utilization of state, federal, county or private funds to promote the preservation of landmarks and historic districts within the city.
- M. Recommend acquisition of a landmark structure by the City Council where its preservation is essential to the purpose of this chapter and where private preservation is not feasible.

§180-11 Criteria for Recommendation of Landmarks or Historic Districts

The Commission shall delineate landmarks or historic districts and recommend them to the City Council under local law. The Commission shall utilize the following criteria in determining whether to recommend designation by the City Council:

- A. Individual Landmark: The commission may recommend an individual property as an individual landmark if it:
 - 1. Exemplifies or possesses special character, or historic or aesthetic interest of value as part of the political, economic or social history of the City;
 - 2. Is identified with persons or events significant in local, state or national history;
 - 3. Embodies the distinguishing characteristics of a type, period or method of construction or design style, or is valuable example of the use of indigenous materials or craftsmanship; or is representative of the work of a designer, architect or builder;
 - 4. Represents an established and familiar visual feature of the community by virtue of its unique location or singular physical characteristic, represents an established and familiar feature of the community;
 - 5. Has yielded or may be likely to yield information important in prehistory or history.
- B. Historic District: The commission may recommend a group of properties within the City as a historic district if a majority of properties therein:
 - 1. Contain properties which meet one or more of the criteria for designation as a landmark and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district; and
 - 2. Constitute a unique section of the City by reason of possessing those qualities that would satisfy such criteria.
- C. Interior Landmark: The commission may recommend the interior of a property as an interior landmark if such interior has special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation and:

1. It is customarily open or accessible to the public; or
2. It is an interior into which the public is customarily invited.

D. Scenic Landmark: The commission may recommend a landscape feature or group of features. Recommendations for designation must be accompanied by such historical and architectural information as is required by the Commission to make an informed recommendation concerning the application, together with any fee set by the City Council. The boundaries of each landmark or historic district shall be specified in detail with reference to the tax map identification number and shall be filed, in writing, in the City Clerk's office and there made available for review by the public.

E. Ordinarily, properties that have achieved significance within the past fifty (50) years are not considered eligible for designation under this landmarks preservation local law or local law adopted by the City Council. However, such properties will qualify if they are:

1. Integral parts of historic districts that meet the criteria for designation; or
2. If they are properties of exceptional importance.

Article IV Procedures for Designation

[Amended 6-14-1988; 5-27-1997; 3-22-2022]

§ 180-11-12 Application; designation by Commission.

Any person may request the designation of a landmark, landmark site or historic district by submitting to the Landmarks Preservation Commission an application for such designation on a form furnished by the Landmarks Preservation Commission. The Landmarks Preservation Commission may initiate proceedings for the designation of a landmark, landmark site or historic district.

~~§ 180-12 Notice of application.~~

~~In the event the Landmarks Preservation Commission decides to entertain an application for designation, notice that such application is being entertained by the Commission shall be given by the applicant or, if the Commission has initiated designation proceedings on its own motion, notice of such shall be given by the Commission to the owner of the parcel on which the proposed landmark is located or owners of parcels located within the proposed historic district. Notice shall be given by certified mail, return receipt requested. Notice shall also be given to the owners of all property located contiguous with the exterior boundary lines of the subject parcel(s) by first-class mail. Said owner or owners shall have the right to be heard by the Landmarks Preservation Commission prior to final action on the application by said Commission. The Commission may also, at its discretion, call a public hearing to receive comments concerning the subject application. Notice of such hearing shall appear at least once in a newspaper of general circulation in the City not less than five days prior to said hearing.~~

§ 180-13 Notice of Application and Hearing Requirements for Proposed Designation.

[Amended 6-14-1988; 5-27-1997]

A. Designation of an individual landmark or historic district may be proposed by the Commission, by the owner of the property or by any resident of the City.

B. In the event the Landmarks Preservation Commission decides to entertain an application for designation, notice that such application is being entertained by the Commission shall be given by the applicant or, if the Commission has initiated designation proceedings on its own, notice of such shall be given by the Commission to the owner of the parcel on which the proposed landmark is located or owners of parcels located within the proposed Historic District. Notice shall be given by certified mail, return receipt requested. Notice shall also be given to the owners of all property located

contiguous with the exterior boundary lines of the subject parcel(s) by first-class mail.

- C. Said owner or owners shall have the right to be heard by the Landmarks Preservation Commission prior to final action on the application by the Commission. The Commission may also, at its discretion, call a public hearing to receive comments concerning the subject application. Notice of such hearing shall appear at least once in the newspaper designated for legal notices in the city not less than five days prior to said hearing.

§ 180-13 Action by Commission; time limit.

~~The Landmarks Preservation Commission shall either recommend approval or disapproval of an application within 30 days after completion of all proceedings before the Landmarks Preservation Commission. Any recommendation for approval of the application may include modifications the Commission considers appropriate and beneficial to the purposes of this article. The Commission's recommendation shall immediately be filed with the City Council, and notice of such recommendation shall be mailed by the City Clerk to the owners of the subject property, the City Planning Board and the Zoning Board of Appeals.~~

§ 180-14 Action by Commission; Time Limit.

In accordance with regulations provided for in this Article, the Commission shall either recommend approval or disapproval of an application for landmark designation or for designation of a historic district and approve or deny any other application provided for in this Chapter, within 30 days after completion of all proceedings before the Commission. Any recommendation for approval of a landmark or historic district designation application may include modifications the Commission considers appropriate and beneficial to the purposes of this Article. The Commission's recommendation shall immediately be filed with the City Council and notice of such recommendation shall be mailed by the City Clerk to the owners of the subject property, the City Planning Board and the Zoning Board of Appeals.

§ 180-14 Disapproval by Commission; procedure.

~~If the Landmarks Preservation Commission recommends disapproval of the application, the proceedings regarding the proposed historic district, landmark or landmark site shall terminate. No application shall be renewed for a period of one year from the date of initial filing. The Commission's recommendation shall immediately be filed with the City Council, and notice of such recommendation shall be mailed by the City Clerk to the owners of the subject property, the City Planning Board and the Zoning Board of Appeals.~~

§ 180-15 Refusal to Recommend Landmark Status; procedure.

If the Landmarks Preservation Commission recommends disapproval of any application for landmark or historic district designation, the proceedings regarding the proposed historic district, landmark or landmark site shall terminate. No application shall be renewed for a period of one year from the date of initial filing. The Commission's recommendation shall immediately be filed with the City Council and notice of such recommendation shall be mailed by the City Clerk to the owners of the subject property, the City Planning Board and the Zoning Board of Appeals.

§ 180-15 Approval by Commission; action by City Council.

- A. Time limit for Council action; vote required. If the Landmark Preservation Commission recommends the approval of a designation, the City Council shall act to approve or disapprove said designation within 30 days of receipt of the Commission's recommendation. A vote of at least four members of the City Council shall be necessary to designate an historic district, landmark or landmark site.

~~B. Public hearing before Council; public notice; time limits. The City Council may, in its discretion, call a public hearing on all recommendations from the Commission to approve applications for historic district, landmark or landmark site designation. Such hearing, if called, shall occur within 30 days of receipt of the decision of the Landmarks Preservation Commission. Such hearing shall be advertised at least once in a newspaper of general circulation in the City not less than five days prior to such hearing, and notice thereof shall be served by mail, postmarked at least 14 days prior to the day of the public hearing, upon the owner or owners of the proposed landmark or landmark site or the owners of the properties within the proposed historic district as shown by the current tax rolls of the City and upon the owner or owners of all property located within 500 feet of the exterior boundary lines of the subject place, site, structure or historic district. The City Council shall act to approve or disapprove the designation within 45 days of the public hearing.~~

§ 180-16 Recommendation by Commission; Action by City Council.

A. Time limit for Council action; vote required. If the Landmark Preservation Commission recommends the approval for a historic district, landmark or landmark site designation, the City Council shall, within 60 days of said recommendation, call a public hearing to consider approval of the application. Such hearing shall be advertised at least once in the newspaper designated for publication of legal notices not less than five days prior to such hearing, and notice thereof shall be served by mail, postmarked at least 14 days prior to the day of the public hearing, upon the owner or owners of the proposed landmark or landmark site or the owners of the properties within the proposed historic district as shown by the current tax rolls of the city and upon the owner or owners of all property located within 500 feet of the exterior boundary lines of the subject place, site, structure or historic district. The City Council shall act to approve or disapprove the designation within 45 days of the closing of the public hearing. A vote of at least four members of the City Council shall be necessary to designate a historic district, landmark or landmark site.

B. Criteria to Be Used to Review Application for Landmark or Historic District Designation. The City Council shall utilize the same criteria applicable to the Landmarks Preservation Commission set forth in §180-11, when determining whether to grant a historic district, landmark or landmark site designation.

§ 180-16 Final action by Council; required notices.

~~When the City Council approves or disapproves an application, the Director of the Building Department, the Landmarks Preservation Commission and the owner or owners of the subject property shall be notified in writing by the City Clerk. If the City Council approves an application, the City Clerk shall also notify the City Assessor.~~

§ 180-17 Final action by Council; required notices.

When the City Council approves or disapproves a historic district, landmark or landmark site application, the Director of the Building Department, the Landmarks Preservation Commission and the owner or owners of the subject property shall be notified in writing by the City Clerk. If the City Council approves an application, the City Clerk shall also notify the City Assessor.

Article V

Restrictions on Issuing Building Permits for Proposed Landmarks

§ 180-17 Time restriction; compliance with chapter.

A. Upon receipt of notice that the Landmarks Preservation Commission is considering a place, site, structure or building for designation as a landmark or landmark site or as part of an historic district, the Building Department shall not issue any permit for the demolition, alteration or improvement of

~~said place, site, structure or building for a period of 105 days unless prior to the expiration of said period there is a final determination by the City Council that said place, site, structure or building has not been designated as a landmark or landmark site or as part of an historic district. If within said period the City Council designates the property in question as a landmark or landmark site, or as part of an historic district, no building permit shall be issued except pursuant to Article VI, Regulation of Designated Landmarks, of this chapter. [Amended 3-22-2022]~~

B. ~~If a protected structure is submitted to the Building Department by the Commission, the time limit of 105 days will begin upon application for building permit. [Amended 12-26-1990]~~

§ 180-18 Time restriction; compliance with chapter.

Upon receipt of notice that the Landmarks Preservation Commission is considering a place, site, structure or building for designation as a landmark or landmark site, the Director of the Building Department shall not issue any permit for the demolition, alteration or improvement of said place, site, structure or building until such time as the Commission and Planning Board have reviewed the application and the Commission has determined whether to recommend designation to the City Council. In the event the Commission recommends designation, the Director of the Building Department shall not issue a permit until a final determination of designation is made by the City Council. If the City Council designates the property in question as a landmark or landmark site, no building permit shall be issued except pursuant to Article VI of this chapter, Regulation of Designated Landmarks.

§ 180-1819 Designation on Landmark and Historic District Map. [Amended 3-22-2022]

Upon notification that the City Council has designated a landmark, a landmark site or historic district, the DBD shall immediately cause such property to be so designated on the Landmark and Historic District Map.

Article VI Regulation of Designated Landmarks

§ 180-1920 Construction, alteration, repairs, removal or demolition. [Amended 5-27-1997]

- A. ~~No person or entity, including but not limited to an owner, tenant, manager, contractor or developer, exercising dominion and control over a structure, site, place or building designated as a landmark or landmark site appearing on the Landmark and Historic District Map and the official Zoning Map of the area in which the landmark site is located or any place, site, structure, building or property located wholly or partly within the boundaries of the Historic District shall allow any construction, alteration, removal, repairs or demolition of such structure, site, place or building except in compliance with the requirements set forth in this chapter.~~
- A. -No person or entity, including but not limited to an owner, tenant, manager, contractor or developer, exercising dominion and control over a structure, site, place or building designated as a landmark or landmark site appearing on the Landmark and Historic District Map and the official Zoning Map of the area in which the landmark site is located or any place, site, structure, building or property located wholly or partly within the boundaries of the Historic District, shall construct, alter, remove, repair or demolish any structure, site, place or building except in compliance with the requirements set forth in this chapter.
- B. Maintenance and repair. Every person or entity, including but not limited to an owner, tenant, manager, contractor or developer, exercising dominion and control over a structure, site, place or building designated as a landmark or landmark site appearing on the Landmark and Historic District Map and the official Zoning Map of the area in which the landmark site is located or any place, site, structure, building or property located wholly or partly within the boundaries of the Historic District

shall keep in good repair all of the exterior portions of such structure, site, place or building or landmark site and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to deteriorate, decay or become damaged or otherwise fall into a state of disrepair.

§ 180-20 Review by Commission.
[Amended 5-27-1997; 3-22-2022]

~~The Landmarks Preservation Commission shall review all plans for the moving, exterior construction, addition, alteration or repair, landscaping or demolition of places, sites, structures or buildings designated as landmarks or landmark sites and all places, sites, structures or buildings wholly or partly within the boundaries of the historic district.~~

- ~~A. Review and approval before issuing building permit; site plan review. It shall be the duty of the Landmarks Preservation Commission to review and approve such plans before a building permit for the proposed activity is granted by the Director of the Building Department. Where site plan approval by the Planning Board is required, Landmarks Preservation Commission approval shall be contingent upon final site plan approval by the Planning Board.~~
- ~~B. Exterior features only subject to review. The Landmarks Preservation Commission shall only review plans relating to the exterior features of a structure or building and shall have no jurisdiction to consider interior walls, arrangements or structures unless such have an impact on the exterior features.~~
- ~~C. Review standards. In reviewing the plans, the Landmarks Preservation Commission shall consider:~~
- ~~(1) The historical and architectural value and significance of the building or structure and its relationship to the historic and architectural value of the surrounding area.~~
 - ~~(2) The general appropriateness of proposed exterior design, colors, arrangement, texture and materials, and consistency with the style of the architectural period of which said building or structure is characteristic.~~
 - ~~(3) Any other factors relating to aesthetic considerations which the Landmarks Preservation Commission deems pertinent to the benefit of the City and to the historic significance of the structure or building and surrounding area.~~

§ 180-21 Review by Commission. Criteria to Be Applied

- A. The Landmarks Preservation Commission shall review all applications for the moving, exterior construction, addition, alteration or repair, landscaping or demolition of places, sites, structures or buildings designated as landmarks or landmark sites and all places, sites, structures or buildings wholly or partly within the boundaries of an historic district.
- B. The Commission may approve an application if it determines the proposed work will not have a substantial adverse effect on the aesthetic, historical or architectural significance and value of the individual landmark or, if the proposed work is within an historic district, such will not have a substantial adverse effect on the aesthetic, historical or architectural significance of the property itself, the district or neighboring properties in such district.
- C. The Commission shall review and approve all applications for a building permit affecting any designated landmark before the application is granted by the Director of the Building Department. Where site plan approval by the Planning Board is required, Commission approval shall be contingent upon final site plan approval by the Planning Board.
- D. The Commission shall only review building applications relating to the exterior features of a

structure or building and shall have no jurisdiction to consider interior walls, arrangements or structures unless such have an impact on the exterior features or are designated interior landmarks.
[Amended 5-27-1997]

E. In reviewing a building permit application, the Commission shall consider:

- (1) the general design and character of the proposed alteration or new construction relative to existing features of the property or improvement;
- (2) the general appropriateness of proposed exterior design, colors, arrangement, texture and materials, and consistency with the style of the architectural period of which said building or structure is characteristic;
- (3) the scale and visual compatibility of the proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood;
- (4) visual compatibility with surrounding properties, including proportion of the property's façade, proportion and arrangement of windows and other openings within the faade, roof shape and the rhythm of spacing on streets, including setbacks;
- (5) the importance of historic physical and visual features to the significance of the property; and
- (6) any other factors relating to aesthetic considerations which the Landmarks Preservation Commission deems pertinent to the benefit of the city and to the historic significance of the structure or building and surrounding area.

F. The Commission may require the application be supplemented by such additional information or materials as may be necessary for a complete review by the Commission. The Commission may impose reasonable conditions or restrictions as it deems necessary or appropriate on a case-by-case basis to promote or achieve the purpose of this local law.

G. In approving an application, the Commission shall find that the building or structure for which the permit was requested, if erected or altered in accordance with the submitted plan or with stated modifications, would be consistent with the spirit and intent of this local law, would not be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or visual discord in relation to the sites or surroundings, would not mar the appearance of the area, would not impair the use, enjoyment and desirability or reduce the values of properties in the area, would not be detrimental to the character of the neighborhood, would not prevent an appropriate development and utilization of the site or of adjacent lands and would not adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the community.

§ 180-242 New construction.

New construction shall be consistent with the architectural styles of historic value in the historic district. However, the Landmarks Preservation Commission may approve the construction of buildings or structures which have a dissimilar architectural style to that of the historic district if said Commission deems it proper that the new construction will be in the best interest of the historic district.

§ 180-223 Moving of landmarks.

Moving of buildings or structures designated as landmarks or located wholly or partly within the boundaries of the historic district may be allowed as an alternative to demolition.

§ 180-23 Procedure for the review of plans.

~~[Amended 5-27-1997 by L.L. No. 2-1997; 3-22-2022]~~

~~A. Application for building permit. Application for a building permit to construct, alter, repair, move or demolish any place, site, structure or building designated as a landmark or any place, site, structure or building within or on the boundaries of the historic district shall be made to the DBD. Three copies of the application shall be submitted in addition to the number normally required for a~~

building permit. The application shall be accompanied by a fee as set forth from time to time by the City Council and shall state that the property is a landmark and/or is located within or on the boundaries of the historic district. Plans shall be submitted showing the structure or building in question and giving its relation to adjacent structures or buildings and the construction, alteration, repair, moving or demolition sought to be accomplished.

- B. ~~Transmittal to Commission.~~ The DBD shall transmit the application and the plans to the Landmarks Preservation Commission.
- C. ~~Review by Commission.~~ The Landmarks Preservation Commission shall then review the plans according to the provisions of this chapter. In reviewing the plans, the Landmarks Preservation Commission shall hear the applicant or his or her authorized representative concerning the building permit.
- D. ~~Notice of public hearing; joint hearing with Planning Board.~~ The Landmarks Preservation Commission shall call a public hearing on said application within 30 days after the filing of the application with the Director of the Building Department, which hearing shall be advertised at least once in a newspaper of general circulation in the City not less than five days prior to such hearing. Where a hearing is also required by the Planning Board for a site plan or special permit, or by any other board whose approval is required, said hearings shall be held jointly if at all practicable.
- E. ~~Conduct of hearings.~~ The Landmarks Preservation Commission may call witnesses, including historians, architects, engineers, planning consultants or other experts, and may introduce other evidence at such hearing. In considering any such application, the Commission shall bear in mind the purpose of this chapter and shall give consideration to any report of the Glen Cove Historical Society and advice of the City Historian relating to the general design, arrangement, architectural style, texture, material and colors of the building or structures in question, the location on the plot of ground and the relation of such features to other buildings, structures, trees or other forms of growth, landmarks, public or private roads, and all other such factors pertaining to the renovation, installation or conservation of any building or improvement which would be incongruous with the historic aspects of the surrounding area.
- F. ~~Determination of Commission; time limit.~~ The Landmarks Preservation Commission shall approve, modify and approve or disapprove such plans within 60 days after receiving the application and said plans, and shall transmit a record of its proceedings and findings to the DBD and to the applicant.
- G. ~~Hardship, relief from.~~ Notwithstanding any other provisions of this chapter, if the applicant establishes to the satisfaction of the Commission that due to strict application of the provisions of this chapter the land or improvement in question cannot yield a reasonable return or that a hardship is created for the applicant due to unique circumstances that are not the result of any act or omission by the applicant, then the Commission may grant or recommend relief in the following manner:
- (1) ~~Authorize issuance of a permit by the Director of the Building Department if the proposed alteration, construction, removal or demolition will not alter the essential character of the structure or area;~~
 - (2) ~~Recommend that following designation and restoration, the property assessment at the time of designation shall not be increased for a period of five years for any residential or conforming nonresidential uses; and~~
 - (3) ~~If the Commission finds that the designation of a particular property as an historic site or landmark will impair its economic viability, the Commission may recommend that the existing assessment or tax burden be reduced to the extent required to assure its continued existence and proper maintenance.~~
- H. ~~Issuance of building permit.~~ The Director of the Building Department shall not grant a building permit until such time as an application has been approved by the Landmarks Preservation Commission or at least 60 days have elapsed from the date the application is received by the Commission. In no case shall a permit be issued prior to site plan approval by the Planning Board.

- I. ~~Ordinary maintenance or repairs. Nothing in this chapter shall be construed to prevent ordinary maintenance or repairs of any place, site, structure or building designated as a landmark or landmark site, or any property located wholly or partly within the boundaries of an historic district.~~

§ 180-24 Procedure for the Review Applications.

- A. An application for the moving, exterior construction, addition, alteration or repair, landscaping or demolition of places, sites, structures or buildings designated as landmarks or landmark sites and all places, sites, structures or buildings wholly or partly within the boundaries of an historic district shall be made to the Director of the Building Department and the Landmarks Preservation Commission on forms provided by the City of Glen Cove. Five copies of the application shall be submitted to the Building Department in addition to the number normally required for a building permit. The application shall be accompanied by a fee as set forth from time to time by the City Council and shall state that the property is a landmark and/or is located within or on the boundaries of the historic district. Plans shall be submitted showing the structure or building in question and giving its relation to adjacent structures or buildings and the construction, alteration, repair, moving or demolition sought to be accomplished. [Amended 5-27-1997 by L.L. No. 2-1997]
- B. The Director of the Building Department shall transmit five copies of the application and plans to the Landmarks Preservation Commission and refer the application to the Planning Board and/or Zoning Board of Appeals as may be appropriate.
- C. The Commission shall review the application and plans according to the provisions of this chapter. In reviewing the plans, the Commission shall hear the applicant or his or her authorized representative concerning the application.
- D. The Commission may call a public hearing on an application within 62 days after the filing of the application, which hearing shall be advertised at least once in a newspaper designated for the publication of legal notices in the City not less than five days prior to such hearing. Where a hearing is also required by the Planning Board for site plan or special permit approval, or by any other board whose approval is required, said hearings may be held jointly.
- E. Conduct of review. Whether or not a hearing is conducted, the Landmarks Preservation Commission may call witnesses, including historians, architects, engineers, planning consultants or other experts, and may consider other relevant evidence. In considering any such application, the Commission shall bear in mind the purpose of this chapter and shall give consideration to any report of the Glen Cove Historical Society and advice of the City Historian relating to the general design, arrangement, architectural style, texture, material and colors of the building or structures in question, the location on the plot of ground and the relation of such features to other buildings, structures, trees or other forms of growth, landmarks, public or private roads, and all other such factors pertaining to the renovation, installation or conservation of any building or improvement which would be incongruous with the historic aspects of the surrounding area.
- F. The Landmarks Preservation Commission shall approve, approve with modifications or disapprove of any application within 62 days after receiving the application or, in the case a hearing is held, within 62 days of the close of the hearing, and shall transmit a record of its proceedings and findings to the Director of the Building Department, the City Council and the applicant.
- G. The Director of the Building Department shall not grant a building permit on the application until such time as the Landmarks Preservation Commission has rendered its determination on the application and the Planning Board and/or the Zoning Board of Appeals have, in appropriate cases, rendered their decisions.

H. Ordinary maintenance or repairs. Nothing in this chapter shall be construed to prevent ordinary maintenance or repair of any place, site, structure or building designated as a landmark or landmark site, or any property located wholly or partly within the boundaries of an historic district.

§ 180-25 Alteration Hardship Review

- A. An applicant whose application for alteration of a landmark property has been denied by the Landmarks Preservation Commission, may apply for relief on the grounds of economic hardship. In order to prove the existence of economic hardship related to a proposed alteration, the applicant shall establish that the denial of the application will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.
- B. Economic Hardship; criteria. An applicant seeking economic hardship relief following the denial of an application for alteration, shall prove the existence of economic hardship by demonstrating to the Commission that: (1) the applicant cannot realize a reasonable economic return if compliance with the Commission's decision is required; (2) the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood; (3) that the requested relief, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.
- C. Following the submission of a complete hardship application, the Commission shall hold a public hearing within a reasonable time and make a determination within 62 days of the close of the hearing, whether the applicant has met his/her burden of proof.
- D. No building permit or other land use approvals shall be issued to the applicant unless the Commission grants the hardship application. If the application is granted, the Commission shall approve only such work as is necessary to alleviate the hardship.
- E. A decision by the Commission shall be in writing and shall state the reasons for granting or denying it.

§ 180-246 Remediating unsafe or dangerous conditions. [Amended 3-22-2022]

This chapter shall not apply in any case where the Building Department or any authorized City enforcement agency orders or directs the construction, removal, alteration or demolition of any improvement on a landmark site or in an historic district for the purpose of remediating conditions determined to be irreparably unsafe or dangerous to the life, health or property of any person.

§ 180-257 Identification; signs. [Amended 5-27-1997; 3-22-2022]

The Landmarks Preservation Commission shall be responsible for appropriate public identification of areas designated as landmarks, landmark sites and historic districts on the Landmark and Historic District Map. The Landmarks Preservation Commission must approve the size, style, color, typography, material of construction and wording of all privately owned signs identifying landmarks, landmark sites and properties within historic districts prior to installation, consistent with the provisions of Article VI, Regulation of Designated Landmarks, of this chapter. In no case may a sign constructed under the provisions of this chapter conflict with the provisions of the City of Glen Cove Sign Ordinance.

Penalties

§ 180-268 Penalties for offenses. [Amended 12-26-1990; 5-27-1997]

- A. Any person or entity who violates any of the provisions of § 180-19 of this chapter shall be punished by a fine of not less than \$1,000 and not to exceed twice the total assessed value of the entire subject property. Each day during which there exists a violation of any of the provisions of § 180-19 of this chapter shall constitute a single and separate violation of such provision.
- B. Whenever any person or entity has engaged or is about to engage in any act or practice which constitutes or will constitute a violation of § 180-19 of this chapter, the City Attorney may make application to the Supreme Court on behalf of the Commission for an order enjoining such act or practice or requiring such person or entity to remove the violation or directing the restoration, as nearly as may be practicable, of any structure, site, place or building designated as a landmark or landmark site or any exterior architectural feature thereof affected or involved in such violation, and upon a showing by the Commission that such person or entity has engaged or is about to engage in such act or practice, a permanent or temporary injunction, restraining order or other appropriate order shall be granted without bond.
- C. The Director of the Building Department is authorized to enforce the provisions of this chapter.
[Amended 3-22-2022]

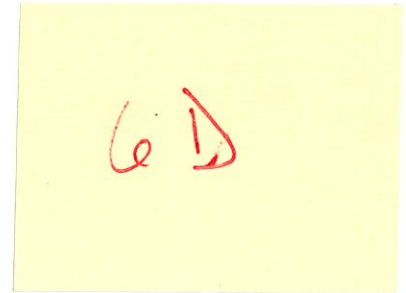
§ 180-279 Civil actions.

The imposition of the penalties in this article shall not preclude the City from instituting any appropriate action or proceeding to prevent any unlawful erection, construction, reconstruction, demolition, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent an illegal act, conduct business or use in or about any premises.

§180-30 Appeals

Any person aggrieved by a decision of the Landmarks Preservation Commission may, within 15 days of the decision, file a written appeal to the City Council for review of the decision. Appellate review shall be based on the same record that was before the Commission and apply the same criteria utilized by the Commission in this local law.

MASTER AGREEMENT
between
BUSPATROL AMERICA, LLC
and
CITY OF GLEN COVE
for a



SCHOOL BUS STOP ARM ENFORCEMENT PROGRAM

This Master Agreement (the "Agreement") is hereby made and entered into by and between BusPatrol America, LLC with its principal place of business at 8540 Cinder Bed Road, Suite 400, Lorton, VA 22079 ("BusPatrol" or "Contractor"), and City of Glen Cove, a municipal corporation with its principal offices located at 9 Glen Street, Glen Cove, NY 11542 ("City").

RECITALS

WHEREAS, on August 6, 2019, the Governor of the State of New York signed into law amendments to the New York Vehicle and Traffic Law that authorize a New York county, city, town or village, by local law or ordinance, to install and operate photo violation monitoring systems on school buses for the purpose of recording violations; and

WHEREAS, pursuant to Section 1174-a of the New York Vehicle and Traffic Law, the governing body of a county, city, town or village located within a county is authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with section eleven hundred seventy-four of the Vehicle and Traffic Law when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter and operated in such county, city, town or village, in accordance with the provisions of such Section 1174-a; and

WHEREAS, pursuant to and in accordance with Section 1174-a, the Local Law establishes a fine of \$250 for a first violation, \$275 for a second violation committed within 18 months of the first violation, \$300 for a third violation or subsequent violation committed within 18 months of the first violation, and an additional \$25 penalty for each violation for the failure to respond to a notice of liability within the prescribed time period; and

WHEREAS pursuant to and in accordance with such Section 1174-a, the City Council on June 14, 2022 adopted Local Law 04-2022 authorizing the City to install and operate school bus photo violation monitoring systems on school buses within the City (collectively with Section 1174-a, "the Law" or "the Stop Arm Law"); and

WHEREAS, the City has entered or will enter an agreement with the Glen Cove City School District ("Participating School District") authorizing the City to contract with BusPatrol to install camera systems on school buses by the City, in order to use video monitoring of vehicles passing school buses to impose civil or other penalties on vehicle owners for violating any of the aforesaid provisions of law; and

WHEREAS, BusPatrol is able to provide an innovative, turn-key, and comprehensive school bus camera system to protect students when riding school buses on customary routes; and

WHEREAS, pursuant to New York's "piggybacking" law, Section 103(16) of the New York General Municipal Law, the City "may contract for such services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies, as may be required by such political subdivision or district therein through the use of a contract let by the United States of America or any agency thereof, any state or any other political subdivision or district therein if such contract was let to the lowest responsible bidder or on the basis of best value in a manner consistent with this section and made available for use by other governmental entities"; and

WHEREAS, the City has determined that the Master Agreement between BusPatrol and Dutchess County, New York, dated September 24, 2021, ("Dutchess County Agreement") expressly permits "Cooperative Purchasing/Piggybacking," is for the same or similar services as the City desires from BusPatrol, is for the same or better pricing, and otherwise meets the criteria under Section 103(16) and the City's procurement Policy & Procedures; and

WHEREAS, BusPatrol agrees to enter into an Agreement with the City under the terms and conditions set forth in the Dutchess County Agreement, except as expressly modified herein; and

WHEREAS, the City represents that it has the authority, in accordance with the Local Law, to enter into this Master Agreement with BusPatrol on behalf of the Participating School Districts, to establish the terms and conditions upon which the City may elect to allow BusPatrol to install, maintain and operate school bus photo monitoring systems within the City, and does hereby award such Master Agreement to BusPatrol; and

WHEREAS, pursuant to the Local Law, the City has authorized BusPatrol to process violations as authorized by such Section 1174-a; and

WHEREAS, the City has reviewed the business and financial terms of this Agreement and confirms that the said terms and conditions are beneficial to the public interest and enhanced safety and security for the children and community at large; and

NOW, THEREFORE, in consideration of the foregoing recitals, which are expressly incorporated herein, the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and BusPatrol agree as follows:

The foregoing recitals are true and correct and form an integral part of this Agreement and are contractual.

AGREEMENT

- A. COOPERATIVE PURCHASING/PIGGYBACKING.** This Agreement is entered into pursuant to the piggybacking authority in Subdivision 16 of Section 103 of the New York General Municipal Laws and the Cooperative Purchasing/Piggybacking provision within the Dutchess County Agreement. Accordingly, all the terms, conditions, covenants and representations contained herein and in the Dutchess County Agreement and any amendments thereto, except as modified by this document, are hereby incorporated by reference and deemed to be a part of this Agreement as if fully set forth at length herein. The terms and conditions of this Agreement shall supersede any inconsistent terms and conditions set forth in the Dutchess County Agreement.

B. DELETIONS. For purposes of this Agreement, the Dutchess County Agreement is expressly modified as follows:

1. *All references to "Dutchess County" or "County" are hereby deleted.*
2. *Section 38.0, "Severance Pay," is hereby deleted.*
3. *Attachment C, "OPT-IN AGREEMENT TO PARTICIPATE IN THE COUNTY OF DUTCHESS/BUSPATROL SCHOOL BUS STOP ARM ENFORCEMENT PROGRAM," is hereby deleted in its entirety.*

C. ADDITIONS. For purposes of this Agreement, the Dutchess County Agreement is expressly modified by adding:

1. *All references to "Dutchess County" and "County" are hereby replaced with "City of Glen Cove" or "City."*
2. *Section 1, "Definitions," is modified to incorporate the following additional definitions:*

1.0 DEFINITIONS

- 1.19 "Contested Violation" means a Notice of Violation issued through the BusPatrol system that is challenged by the owner of the vehicle before a Local Court in a Participating Municipality in accordance with Section 1174-a of the NY VTL, and that results in payment of any fines or penalties directly to the Local Court.
 - 1.20 "Local Court" means the court or traffic violations bureau having jurisdiction over traffic infractions where the violation occurred.
 - 1.21 "Non-Contested Violation" means a Notice of Violation issued through the BusPatrol system that is not challenged by the owner of the vehicle and is paid directly to BusPatrol.
 - 1.22 "Program Revenue" means (a) 100% of the fines and penalties from Contested collected by Local Courts, plus (b) 100% of fines and penalties from Non-Contested Violations collected by BusPatrol.
3. *Section 4, "SCOPE OF SERVICES/RESPONSIBILITIES OF THE PARTIES," is modified to incorporate the following additional responsibilities:*

A. RESPONSIBILITIES OF BUSPATROL. BusPatrol agrees to provide the following services, as more fully described in Exhibit A:

- xvii. Establish a bank account at an FDIC member (insured) bank for the collection and processing of Program Revenues, which account may be managed by BusPatrol or a third party payment processor, as well as a payment processor account and payment gateway;

4. *Section 5, "Payment," is removed and following terms are added:*

5.0 PAYMENT. All payments to be made to Contractor and City shall be paid from Program Revenues, which shall be collected and distributed as follows:

5.1 Collection And Disbursement of Revenues From Non-Contested Violations.

- 5.1.1 All fines and penalties collected by BusPatrol for Non-Contested Violations shall be deposited into the dedicated BusPatrol bank account established by Contractor pursuant to Article 4.
- 5.1.2 100% of the fines and penalties collected from Non-Contested Violations shall be considered Program Revenue and shall be used solely for purposes of paying the Revenue Share payments and Program Administrative Expense called for in Article 5.3.
- 5.1.3 BusPatrol will disburse Program Revenues from the dedicated BusPatrol account within 5 days of City's approval of each monthly Revenue Reconciliation Report and accompanying BusPatrol invoice, as called for in Articles 5.4 and 5.5.

5.2 Collection And Disbursement of Revenues From Contested Violations.

- 5.2.1 All fines and penalties from Contested Violations will be collected by the Local Court in the Participating Municipality where the Violation is adjudicated.
- 5.2.2 City shall work with the Local Court to ensure that all fines and penalties from Contested Violations are transferred to the City, to be disbursed as Program Revenues.
- 5.2.3 100% of the fines and penalties collected from Contested Violations shall be considered Program Revenue and shall be used solely for purposes of paying the Revenue Share payments and Program Administrative Expense called for in Article 5.3.
- 5.2.4 City will disburse Program Revenues to BusPatrol within 10 days of City's approval of each monthly Revenue Reconciliation Report and accompanying BusPatrol invoice, as called for in Articles 5.4 and 5.5.

5.3 Payment Amounts. Program Revenues shall be used to pay the following amounts to compensate Contractor for the installation, maintenance and use of the BusPatrol Systems in accordance with Section 1174-a(1-b) of the New York State Vehicle and Traffic Law:

5.3.1 Revenue Share Payments.

- 5.3.1.1 All Program Revenues shall be disbursed 45% to the Contractor ("Contractor's Revenue Share") and 55% to City ("City's Revenue Share").

5.3.2 Program Administrative Expense.

- 5.3.2.1 On the first day of each month, City shall invoice Contractor for payment of a fixed monthly amount equal to the agreed-upon Program Administrative Expense, as established by the Parties in accordance with this Article 5.3.
- 5.3.2.2 For purposes of this Article 5.3. "Program Administrative Expense" equals an agreed-upon fixed monthly amount to reimburse City for the salary and benefits of one (1) full time City employee to directly administer and support the Stop Arm Program. In addition, Program Administrative Expense will

include any expense incurred by the City for labor or materials resulting from the administration of the Stop Arm Program, which will be documented by the City and mutually agreed upon with Contractor.

5.3.2.3 The City agrees to confer with Contractor regarding the required level of administrative support needed to carry out the Stop Arm Program, and to determine whether Contractor can provide an alternative means of providing the required administrative support, at the Contractor's expense. The parties will also confer to adjust the amount of the Program Administrative Expense established in this Article 5.3 in the event of any changes in the level of administrative support required, including but not limited to changes in the number of buses deployed or volume of Violations issued, or any material increase or decrease in City's actual cost of administering or supporting the Stop Arm Program.

5.3.2.4 City agrees to comply with any reasonable request by Contractor for documentation supporting such Program Administrative Expense.

5.4 Monthly Revenue Report, Invoicing and Payment. Within 15 days following the end of each month, BusPatrol shall submit a report (the "Revenue Reconciliation Report") and accompanying invoice to City for review and approval, to authorize payment of the amounts called for in this Article 5. At a minimum, the monthly Revenue Reconciliation Report shall include the following supporting information:

5.4.1 Total number and gross revenue from Contested Violations collected by Local Courts and transferred to the City during the previous month, to be disbursed as Program Revenue;

5.4.2 Total number and gross revenues from Non-Contested Violations collected by Contractor during the previous month, to be disbursed as Program Revenue;

5.4.3 Total amount of Contractor's 45% share of Program Revenue and City's 55% share of Program Revenue; and

The Parties agree to work in good faith to reconcile any discrepancies in the amounts payable to any Party that are identified in the monthly Revenue Reconciliation Report.

5.5 Payment, Disbursement of Program Revenues.

5.5.1 BusPatrol will disburse revenues collected from Non-Contested Violations from the dedicated BusPatrol account to the City and BusPatrol within 5 calendar days of City's approval of a monthly Revenue Reconciliation Report and accompanying invoice.

5.5.2 All amounts payable to BusPatrol under this Agreement shall be paid from Program Revenues. In no event shall the City bear any expense associated with the administration of this program if Program Revenues over the entire term of this agreement (including any

extension thereof) are insufficient to cover the amounts owed to BusPatrol.

5. *Attachment B, Attachment C, OPT-IN AGREEMENT TO PARTICIPATE IN THE COUNTY OF DUTCHESS/ BUSPATROL SCHOOL BUS STOP ARM ENFORCEMENT PROGRAM," is replaced with the following:*

**ATTACHMENT B
OPT-IN AGREEMENT TO PARTICIPATE IN THE CITY OF GLEN COVE/
BUSPATROL SCHOOL BUS STOP ARM ENFORCEMENT PROGRAM**

Participating School District Name: _____

BusPatrol Solutions To Be Implemented:

(select one):

- ☐ BusPatrol External Enforcement Solution
☐ BusPatrol Internal Student Safety Solution

Total No. of School Buses: _____

Agreed-Upon Installation Start Date: _____

Participating School District Point of Contact: _____

WHEREAS, General Municipal Law Section 119-o authorizes municipal corporations and districts to enter into agreements for the performance among themselves or one for the other of their respective functions, powers and duties on a contract basis; and

WHEREAS, the City is authorized by Section 1174-a of the New York State Vehicle and Traffic Law and Local Law 04-2022 to enter into an agreement with the Glen Cove City School District for the installation and operation of outward facing school bus photo violation monitoring systems on school buses owned or operated by within the school district or privately owned and operated for compensation under contract with the school district; and

WHEREAS, the City has entered into an agreement with BusPatrol to acquire, on behalf of the Glen Cove City School District , a turn-key, web-based school bus photo violation monitoring system that can be used to capture images of vehicles operated in violation of VTL Section 1174, issue citations to the owner of such vehicle when approved by an authorized Municipal Technician, and collect fines from the owner of such vehicle as authorized by Section 1174-a; and

WHEREAS, the Glen Cove City School District desires to enter into this agreement to authorize the City, through its contractor BusPatrol, to install and operate of outward facing school bus photo violation monitoring systems on school buses operated within the Glen Cove City School District as authorized by Section 1174-a and Local Law 04-2022;

NOW, therefore, it is mutually agreed by and between the parties hereto as follows:

1. **Purpose.** This "Opt-In Agreement" constitutes a formal, binding agreement between the Glen Cove City School District ("GCSD"), the City of Glen Cove ("City") and BusPatrol America LLC ("BusPatrol"), for the installation, operation and maintenance of school bus photo violation monitoring systems on school buses owned or operated by the GCSD or privately owned and operated for compensation under contract with GCSD in accordance with Section 1174-a of the New York State Vehicle and Traffic Law and [Local Law 04-2022 (the "Stop Arm Laws"), as well as the installation and operation of other optional internal student safety cameras if selected by GCSD (the "BusPatrol System").
2. **Authorization.** The Parties' execution of this Opt-In Agreement will serve as authorization for the City, through its contractor BusPatrol, to install and operate the BusPatrol System identified above on school buses owned and operated by the district or privately owned and operated for compensation under contract with such district.
3. **Payment.** In accordance with the Stop Arm Laws and the Master Agreement between City and BusPatrol ("Master Agreement"), the City will be solely responsible for paying BusPatrol for the installation, maintenance and use of the BusPatrol System on school buses owned and operated by GCSD or privately owned and operated for compensation under contract with GCSD , to be paid solely from the revenues from any fines generated by said school bus photo violation monitoring systems operated within the GCSD jurisdictional boundaries as provided by separate contract between the City and GCSD. GCSD will have no responsibility for payment of any amounts due to BusPatrol for the installation, operation or maintenance of the BusPatrol System
4. **Responsibilities of the Parties:**
 - a. **BusPatrol.** BusPatrol is responsible for providing all equipment and services necessary to install, operate and maintain the BusPatrol System as described in Exhibit A of the Master Agreement, a copy of which is attached as Attachment 1.
 - b. **City.** The City is responsible for administering and overseeing BusPatrol's performance of the Stop Arm Enforcement Program as set forth in the Master Agreement, including but not limited to:
 - i. Arranging for qualified Enforcement Technicians to review evidence packages and approve or disapprove potential notices of violation of the Stop Arm Laws;
 - ii. Installing signage provided by BusPatrol in conformance with standards established in the Manual of Uniform Traffic Control Devices; and
 - iii. Reviewing and approving BusPatrol invoices for payment, in accordance with the Master Agreement.
 - c. **GCSD.** GCSD is responsible for:
 - i. Providing BusPatrol or its agents with access to buses owned or operated by the District, beginning on the Installation Start Date specified above (to be mutually agreed upon by the District, the City and BusPatrol). If GCSD does not own and operate the buses customarily used on the

routes in its district, then GCSD shall enter into an agreement with the private owner(s) and operator(s) of those buses to allow BusPatrol to install and operate its equipment on such buses, at no cost to BusPatrol. If GCSD does not enter into such agreement with the private owner(s) and operator(s), or if any private owner or operator fails to provide BusPatrol will access to school buses, the City or BusPatrol, at its option, may terminate the Opt-In Agreement with GCSD;

- ii. Providing BusPatrol with ongoing access to any and all BusPatrol equipment installed on buses owned or operated by GCSD or its third-party bus operator(s), as reasonably necessary for BusPatrol to operate and maintain the school bus violation monitoring system;
- iii. Providing BusPatrol with electronic copies of school bus routing information, in Excel or CSV format, if possible, for the purpose of identifying high risk routes and prioritizing an installation schedule;
- iv. Using best efforts to maintain the routes identified in Subsection 4(c);
- v. Using best efforts to properly store, secure, maintain, and repair the school buses when not in use to reasonably safeguard the BusPatrol System;
- vi. Appointing a designated point of contact, identified above, who shall be authorized to act on behalf of GCSD on all matters relating to this Opt-In Agreement and GSD's use of and participation in the school bus school bus photo violation monitoring systems;
- vii. Implementing security measures to ensure that any photographs, microphotographs, videotapes, other recorded images and data from internal non-enforcement cameras installed under Option B are only accessed by authorized personnel from GCSD.

5. **License, Restricted Use.** BusPatrol grants to GCSD a limited, non-exclusive license to use the BusPatrol System, including BusPatrol Equipment and BusPatrol Software and other BusPatrol Intellectual Property (collectively "BusPatrol Intellectual Property"), solely for purposes of carrying out this Opt-In Agreement. This license shall continue for so long as this Opt-In Agreement remains in effect, and shall expire immediately upon termination or expiration of this Agreement. GCSD shall immediately cease any and all use of the BusPatrol Intellectual Property upon termination or expiration of this Opt-In Agreement, unless specifically authorized by BusPatrol in a separate written license agreement.

GCSD agrees that it will not use the BusPatrol Intellectual Property for any purpose other than BusPatrol's operation of the BusPatrol System during the term of this Agreement. GCSD will not disclose the BusPatrol Intellectual Property to any third parties without the prior express written permission of BusPatrol; will not make any modifications to the BusPatrol System; and will not attempt to disassemble, de-compile or otherwise perform any type of reverse engineering to the BusPatrol System or cause any other person to do any of the foregoing.

6. **Reporting.** GCSD, acting by and through the Superintendent of Schools of such District, or his or her designee, shall provide any report required of the District,

pursuant to Section 1174-a of the Vehicle Traffic law or Local Law 04-2022, to the State or any official thereof. BusPatrol and City agree to work with GCSD to provide any information or other reasonable assistance necessary for District to prepare and submit any required reports.

7. **Restrictions on Access to Enforcement Data.** In accordance with the State and Local Law and the Master Agreement, the parties agree that BusPatrol will implement controls and configure the BusPatrol system to safeguard enforcement data generated by the external cameras and other components of the BusPatrol Stop Arm Enforcement Solution as follows:
 - a. Pursuant to Section 1174-a (a)(3)(i) of the Vehicle and Traffic Law, BusPatrol will implement controls and configure the BusPatrol system to (i) prevent GCSD from accessing any photographs, microphotographs, videotapes, other recorded images and data from school bus photo violation monitoring systems; (ii) provide for the proper handling and custody of such photographs, microphotographs, videotapes, other recorded images and data produced by such systems; and (iii) provide for the forwarding of such photographs, microphotographs, videotapes, other recorded images and data to the City for the purpose of determining whether a motor vehicle was operated in violation of subdivision (a) of Section 1174 of the New York Vehicle and Traffic Law and imposing monetary liability on the owner of such motor vehicle therefor.
 - b. BusPatrol will implement controls and configure the BusPatrol system to ensure that all photographs, microphotographs, videotapes, other recorded images and data produced by school bus photo violation monitoring systems shall be destroyed (i) ninety days after the date of the alleged imposition of liability if a notice of liability is not issued for such alleged imposition of liability pursuant to this local law or (ii) upon final disposition of a notice of liability issued pursuant to this local law.
8. **Restrictions on Access to Internal Camera Data.** The parties agree that BusPatrol will implement controls and configure the BusPatrol system to ensure that any photographs, microphotographs, videotapes, other recorded images and data from the internal cameras (if any) installed pursuant to this agreement shall be made available only to GCSD, and shall not be made available to the City or any third party except as explicitly authorized by the GCSD. In accordance with the Master Agreement, BusPatrol will implement controls and configure the BusPatrol system to ensure that all video footage, recorded images and other information generated through such internal non-enforcement cameras shall be destroyed within 90 days unless a longer period is authorized by GCSD or required by law.
9. **Changes.** Changes to this Opt-In Agreement may be made only by mutual written agreement of the parties.
10. **Term, Termination.**
 - a. This Agreement shall commence on the Agreed Upon Installation Start Date above and shall terminate on December 1, 2024, unless otherwise terminated as set forth herein (the "Initial Term"). Upon expiration of the Initial Term, this Agreement may be extended for additional periods of one year each, not exceeding in total five (5) years, upon such terms and conditions as may be

agreed between the parties provided New York State has extended or not eliminated the provisions of the enabling legislation as contained in Section 1174-a of the Vehicle and Traffic Law.

- b. This Opt-In Agreement will automatically terminate in the event the Master Agreement between BusPatrol and City is terminated in accordance with the terms of said Master Agreement.
 - c. This Opt-In Agreement may also be terminated by GCSD, the City or BusPatrol by providing 30 days prior written notice to the other parties.
 - d. In the event of a termination, GCSD shall immediately cease use of the BusPatrol System, including any and all BusPatrol Equipment, BusPatrol Software or Intellectual Property, and allow BusPatrol reasonable access to buses owned and operated by GCSD or its third-party bus operator, to allow BusPatrol to remove the BusPatrol Equipment in accordance with the wind down provisions of the Master Agreement.
14. **Non-Assignment.** This Agreement may not be assigned by GCSD without prior written consent of the City and BusPatrol. The City shall be relieved of all liability and obligations consistent with the New York State General Municipal law Section 109 in the event of such unauthorized assignment.
15. **Executory.** All amounts to be paid to BusPatrol for the performance of the services called for in this Contract will be paid solely from the civil penalties collected from the operation of the BusPatrol System, as provided for by the Stop Arm Law. BusPatrol assumes the risk that program revenues will be sufficient to cover BusPatrol's expenditures to install and operate the BusPatrol System, and therefore agrees that neither this Agreement nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available moneys for the purpose of this Agreement in the event that gross revenues collected over the life of this Agreement (including any extensions thereof) are insufficient to cover any costs, expenses or fees associated with this Agreement owed to BusPatrol. BusPatrol will have no claim against the City or GCSD for the payment of any such unpaid costs, expenses or fees.
16. **Notice.** Except as otherwise provided in this Agreement, notice required to be given pursuant to this Agreement shall be made in writing and addressed to the following or such other person as the parties may designate:

City:

9 Glen Street
Glen Cove, N.Y. 11542
(516) 676-2000
<email>

BusPatrol America LLC:

Jean Souliere
8540 Cinder Bed Road, Suite 400
Lorton, Virginia 22079

(703) 338-0208
jean@buspatrol.com

Glen Cove City School District :

154 Dosoris Lane
Glen Cove, N.Y. 11542
<tel>
<email>

17. **Non-Waiver.** Failure of either party to exercise any rights under this Agreement for a breach thereof shall not be deemed a waiver thereof or a waiver of any subsequent breach.
18. **Severability.** If any provision of this Agreement shall be held unenforceable, the rest of the Agreement shall nevertheless remain in full force and effect.
19. **Choice of Law, Venue.** Any dispute arising directly or indirectly out of this Agreement shall be determined pursuant to the laws of the State of New York. The parties hereby choose the Supreme Court, County of Nassau, State of new York as the forum for any such dispute.
20. **No Arbitration.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration but must instead be heard in accordance with the Paragraph above entitled "Choice of Law, Venue".
21. **Rules Of Construction.** This contract shall be deemed to have been mutually prepared by the parties hereto and shall not be construed against any of them solely by reason of authorship
22. **Counterparts; Signatures Transmitted By Electronic Means.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart. A facsimile or signature transmitted by electronic means applied hereto or to any other document shall have the same force and effect as a manually signed original. This provision contemplates giving legal force and effect to copies of signatures. This provision does not contemplate the use of "electronic signatures" as regulated by New York State Technology Law Article 3, "Electronic Signatures and Records Act."

23. **Entire Agreement.** The terms of this Agreement, including its attachments and exhibits, represent the final intent of the parties. Any modification, rescission or waiver of the terms of this Agreement must be in writing and executed and acknowledged by the parties with the same formalities accorded this basic Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement made this ____ day of _____, 20____.

BUSPATROL:

By: _____
Name: Jean F. Souliere
Title: CEO, BusPatrol America LLC
Date: _____

CITY:

By: _____
Name: Pamela Panzenbeck
Title: Mayor
Date: _____

PARTICIPATING SCHOOL DISTRICT:

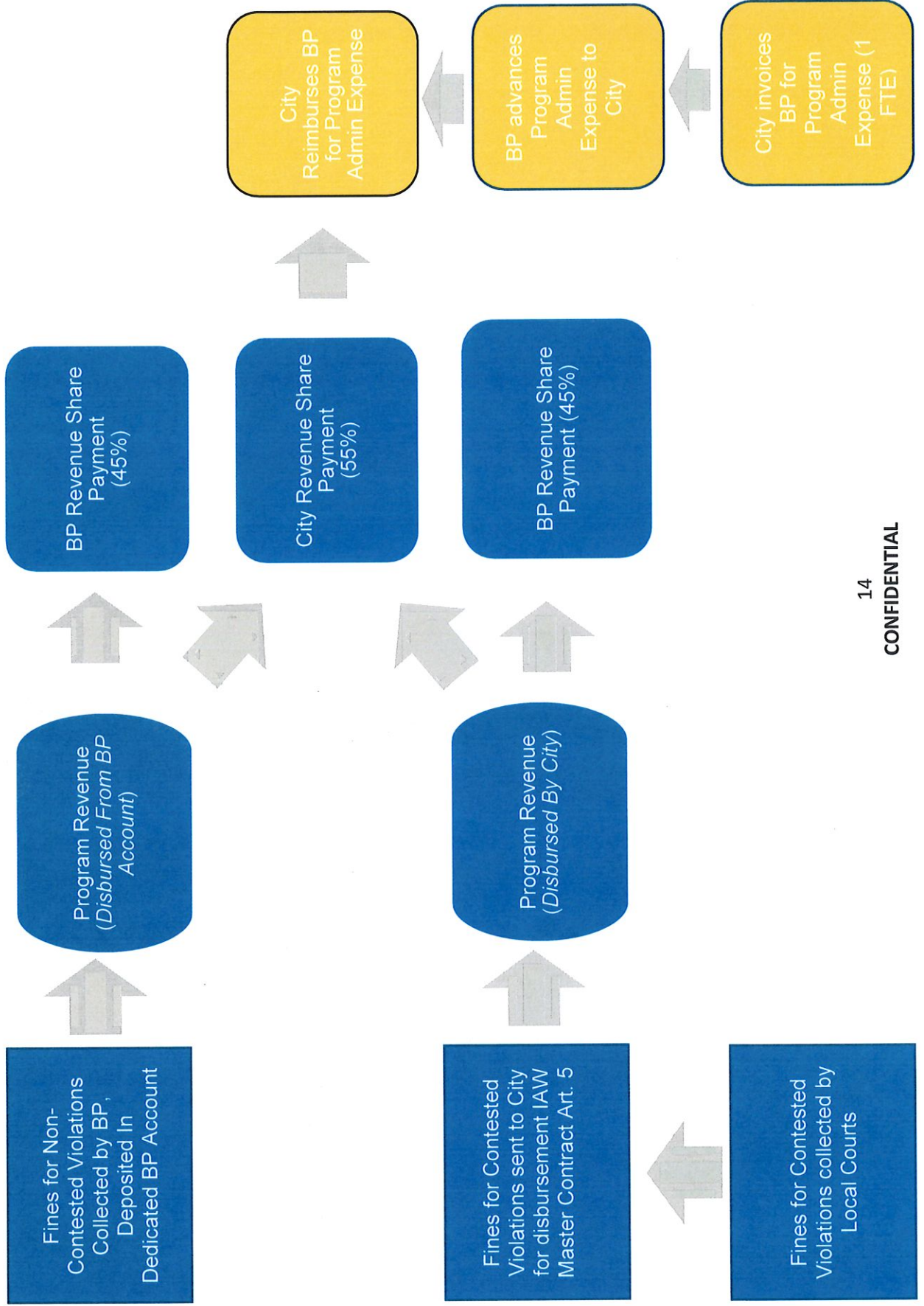
By: _____
Name: _____
Title: _____
Date: _____

Attachment C, "REVENUE RECONCILIATION AND DISBURSEMENT PROCESS," is replaced in its entirety with the following,

CONTINUE TO NEXT PAGE

ATTACHMENT C REVENUE RECONCILIATION AND DISBURSEMENT PROCESS

The following flowchart illustrates the monthly flow of funds to be performed in accordance with Article 5 of the Agreement.



6. [FURTHER ADDITIONS TBD]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for a School Bus Safety Camera Program between BusPatrol and City, effective as of the date of the first Notice of Violation (the "Effective Date").

BUSPATROL:

By: _____
Name: Jean F. Souliere
Title: CEO, BusPatrol America LLC
Date: _____

CITY OF GLEN COVE:

By: _____
Name: Pamela Panzenbeck
Title: Mayor
Date: _____

(END)



105 SWEENEYDALE AVE. BAY SHORE, NY 11706
OFFICE (631) 691-2381 • FAX (631) 691-2382

6E

August 25, 2022

Proposal #22-1120

Rocco Graziosi
City of Glen Cove
9 Glen Street
Glen Cove, NY 11542
rocco@glencoveny.gov

Project Name	City of Glen Cove- Sea Wall Remediation at Morgan Park
Requirements Contract	ES BOCES Concrete, Asphalt & Related Site Work 2019-049-1011R
Project Cost Not to Exceed	\$ 449,722.80

Thank you for allowing the LandTek Group, Inc. the opportunity to provide you with the following proposal for remediation work on the sea wall at Morgan Park. This proposal is based on the ES BOCES Concrete, Asphalt & Related Site Work 2019-049-1011R.

Scope of Work

- Furnish and install temporary fence at the North end steps and South end roadway.
- Reassemble and repair (5) collapsed granite piers and (1) wall.
- Furnish and install 1' wide concrete gutter at the topside of wall. Regrade to proper line and grade, pitching water towards the existing wall scuppers.
- Prepare, power wash and repoint existing granite wall with a reinforced, rapid-setting concrete mortar.
- Repoint from water line to top of wall. Anticipated 150' of wall repair from North to South dependent on tide, structural stone void variability, structural stone/mortar placement efficiency, wall access and weather.

Notes:

- Proposal is based on Eastern Suffolk BOCES Contract #2019-049-1011R.
- All labor shall be at NYS Prevailing Wage Rates. Certified Payroll Reports shall be provided. LandTek will submit signed AIA forms with Certified Payroll.
- Proposal shall conform with all requirements as stated in the provided Dormitory Authority of the State of New York (DASNY) Grant Disbursement Agreement (see attached).
- Proposal shall conform with all Insurance and Indemnification Requirements (see attached). Certificates of Insurances shall be provided as required.

"Building Champions from the Ground Up"

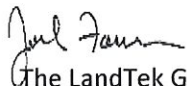
www.landtekgroup.com

Exclusions:

- Excavation or removal of contaminated and/or unsuitable soils.
- Hazardous materials/asbestos abatement.
- All guardrail work including but not limited to new, reinstall or modifications.
- Drainage work other than listed above.
- All irrigation work.
- All electrical work.
- Bond & OCP insurance
- Sales tax - Owner to provide tax exempt certificate
- Permits and/or Inspection fees.
- Private mark out.
- All Testing.
- Architectural and/or engineering fees.
- Nighttime or weekend works
- Construction delays due to Covid-19 related closures and/ or work stoppages, including that of material suppliers
- Any items of work not specifically included in this proposal shall not be the responsibility of LandTek

Thank you again for your interest in the LandTek Group, we look forward to working with you. If you should have any questions, please feel free to contact me.

Sincerely,



The LandTek Group, Inc.

Joel Fonseca

Project Manager

Phone: (631) 691-2381

Email: jfonseca@landtekgroup.com

ZONE 5 - Western Suffolk - Townships of Smithtown, Huntington and Babylon

Line	Estimated Usage	Item Description / Classification	UOM	Unit	Total
Concrete Work					
21	930	Cement Concrete Flatwork - NEW - 6" Thick	SF	\$ 7.75	\$ 7,207.50
		Total Concrete Flatwork			\$ 7,207.50
Additional Labor and Materials					
40	1148	In the event the services of a laborer are needed for any of the above specifications, please indicate the hourly rate of such laborer. Vendors must present certified payroll in accordance with prevailing wage requirements along with all invoices for payment.	per hour	\$ 250.00	\$ 287,000.00
41	141,423	This bid contemplates that the Cooperative Program participants and ESBOCES will reimburse contractor for its certified cost plus % of all parts and materials utilized in connection with repair and/or replacement of equipment for any of the above specifications. Please indicate the Certified Cost Plus % of such materials.	% Cost Plus	10%	\$155,565.30
TOTALS:					\$ 449,772.80

ARTICLE 1. INSURANCE

1. Before performing any work on the contract, the Contractor shall procure and maintain all of the insurance required under this contract and provide proof of such insurance coverage to the City.
2. The Contractor shall take out and maintain during the life of this contract Workers' Compensation Insurance for all his employees employed at the site of the Project and in case of any of the work being performed by a subcontractor, the Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by the Contractor. The Workers' Compensation Insurance shall be in the amount of \$1,000,000.00/\$1,000,000.00/\$1,000,000.00.
3. The Contractor shall obtain and maintain over the duration of the contract Disability Benefits coverage as required by New York State Disability Law.
4. The Contractor shall also procure before commencing work at the site of the Project and maintain during the life of the contract, such Public Liability, Professional Liability (if work involves contractor providing a professional service), and Property Damage Insurance as shall protect him and his subcontractors performing work at the site from claims for damages for bodily injury, including death, as well as from claims for damages to property which may arise from operations under the contract, whether such operations be by himself or by any subcontractor or anyone directly or indirectly employed by either of them. Public Liability limits of not less than \$1,000,000.00 for injuries including accidental death to any one person, and subject to the same limit for each person, in an amount not less than \$3,000,000.00 on account of one accident. Property Damage limits of not less than \$1,000,000.00. Professional Liability limits of not less than \$5,000,000.00 for a wrongful act and \$5,000,000.00 aggregate.
5. The Contractor must also furnish, in the name of the City, Contingent Liability and Contingent Property Damage Insurance policies to protect the City against claims arising from the operations of the Contractor and his subcontractors, in the same amounts as required for Public Liability and Property Damage.
6. The Contractor must furnish, in the name of the City, Protective Liability and Property Damage Insurance policies to protect the City against claims for property damage and for personal injuries, including accidental death, arising from the operations of the Contractor and his subcontractors, in the same amounts as required for Public Liability and Property Damage.
7. The Contractor must furnish, in the name of the City, Automobile and Truck Insurance policies, in the same amounts as required for Public Liability and Property Damage, to protect the City against liability and property damage claims arising from the operation of his vehicles.
8. The Contractor must furnish Comprehensive General Liability Insurance (with completed operations, plus X.C.U. when applicable) in the same amounts as required for Public Liability and Property Damage.
9. The Contractor must furnish Commercial General Liability Coverage in the amount of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate.

10. The Contractor must furnish Contractor Pollution Liability Insurance (if work involves pollution sensitive operations, as deemed by the City) at \$2,000,000.00 an occurrence and \$2,000,000.00 aggregate.
11. The Contractor must furnish Umbrella/Excess Liability Insurance at \$2,000,000.00 an occurrence and \$2,000,000.00 aggregate.
12. All policies must also have endorsements, providing the City is to receive ten (10) days notice of any notice of cancellation on the policy for any reason whatsoever.
13. Two certificates of all insurance must be furnished. The City of Glen Cove and Glen Cove Community Development Agency (CDA), and all employees, elected officials, departments, boards, commissions and agencies of the City, the Engineer, their agents and servants, in addition to the Dormitory Authority of the State of New York (DASNY), New York State and their respective agents, officers and employees and LiRo Engineers, Inc. (LiRo), shall be designated as certificate holders and each provided a certificate.
14. The Contractor shall furnish all insurance required by any agency from whom they or the City must obtain permits in order to perform the work under this contract.
15. The City of Glen Cove and Glen Cove CDA, and all employees, elected officials, departments, boards, commissions and agencies of the City, the Engineer, their agents and servants, in addition to DASNY, New York State and their respective agents, officers and employees, and LiRo, "collectively the Indemnities," shall be listed as additional insured on all insurance documents as they pertain to this specific Contract. A Waiver of Subrogation will be granted in favor of the Indemnities. All policies shall be written on a primary, non-contributory basis. Additionally, all policies, except The LandTek Group, Inc.'s (LandTek) Professional Liability Coverage, shall be written on an Occurrence-based form. The Indemnities, as Additional Insured, shall be entitled to 30 days written notice of cancellation or renewal of any policy. If the evidenced insurance expires prior to completion of work, a renewal certificate shall be furnished at least ten (10) days before the date of expiration. LandTek shall provide proof of insurance to the Indemnities upon demand in the form of a certificate of insurance and copies of policies, if so requested. If LandTek retains or hires any subcontractors, of any tier, in the course of its performance under the Contract, the requirements of this paragraph shall be binding and transferrable to each subcontractor so retained or hired, unless the Indemnities authorizes an exception prior to said subcontractor performing work for The City. The Indemnities reserves the right to amend the aforementioned insurance requirements, as it deems necessary depending on the scope of work being provided.
16. To the fullest extent permitted by law, Contractor shall (1) immediately defend and (2) indemnify the City of Glen Cove and Glen Cove CDA, and all employees, elected officials, departments, boards, commissions and agencies of the City, the Engineer, their agents and servants, in addition to DASNY, New York State and their respective agents, officers and employees and LiRo, from and against all liabilities, regardless of nature or type that arise out of, pertain to, or relate to the Agreement or the Amendment as defined in this Agreement, unless arising out of the City's gross negligence. Liabilities subject to the duties to defend and indemnify include, without limitation, all

claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution.

Additionally, Contractor shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the City, the City and its councilmembers, officers, and employees, immediately upon tender to Independent Contractor of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination that persons other than Contractor is responsible for the claim does not relieve Contractor from its separate and distinct obligation to defend under this section. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if Contractor asserts that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. In order for Contractor to be relieved of the duty to defend, there must be no possible factual or legal basis on which Contractor's duty to indemnify under any provision of this indemnity.

This **GRANT DISBURSEMENT AGREEMENT** includes
all exhibits and attachments hereto and is made on the terms and by the parties listed below
and relates to the project described below:

**DORMITORY AUTHORITY OF THE STATE OF
NEW YORK ("DASNY"):**

515 Broadway
Albany, New York 12207
Contact: Karen Hunter
Phone: (518) 257-3177
E-mail: grants@dasny.org

THE GRANTEE:

City of Glen Cove
City Hall
9 Glen Street
Glen Cove, NY 11542
Contact: Honorable Timothy Tenke
Phone: (516) 676-2004
Email: ttenke@glencoveny.org

THE PROJECT:

Rehabilitation of Morgan Memorial Park
Seawall

PROJECT LOCATION:

Morgan Memorial Park

PROJECT ADDRESS:

Morgan Memorial Park, Glen Cove, NY

GRANT AMOUNT:

\$250,000

FUNDING SOURCE:

State and Municipal Facilities Program
("SAM")

For Office Use Only:

**PRELIMINARY APPLICATION OR PROJECT
INFORMATION SHEET DATE:**

12/18/19

EXPIRATION DATE OF THIS AGREEMENT:

3 YEARS FROM DASNY EXECUTION DATE

Project ID: 21566

FMS#: 13519

GranteeID: 187

GrantID: 23619

TERMS AND CONDITIONS

1. The Project

The Grantee will perform tasks within the scope of the project description, budget, and timeline as set forth in the Project Budget attached hereto as Exhibit A (collectively, the "Project") which was described by the Grantee in the Preliminary Application or Project Information Sheet submitted by the Grantee, then reviewed by DASNY and approved by the State.

2. Project Budget and Use of Funds

- a) The Grantee will undertake and complete the Project in accordance with the overall budget, which includes the Grant funds, as set forth in the attached Exhibit A. The Grant will be applied to eligible expenses which are as described in the Preliminary Application or Project Information Sheet, and fall within the scope of the project description set forth in the attached Exhibit A.
- b) Grantee agrees and covenants to apply the Grant proceeds only to capital works or purposes, which shall consist of the following:
 - i. the acquisition, construction, demolition, or replacement of a fixed asset or assets;
 - ii. the major repair or renovation of a fixed asset, or assets, which materially extends its useful life or materially improves or increases its capacity; or
 - iii. the planning or design of the acquisition, construction, demolition, replacement, major repair or renovation of a fixed asset or assets, including the preparation and review of plans and specifications including engineering and other services, field surveys and sub-surface investigations incidental thereto.
- c) Grantee agrees and covenants that the Grant proceeds shall not be used for costs that are not capital in nature, which include, but shall not be limited to working capital, rent, utilities, salaries, supplies, administrative expenses, or to pay down debt incurred to undertake the Project.

3. Books and Records

The Grantee will maintain accurate books and records concerning the Project for six (6) years from the date the Project is completed and will make those books and records available to DASNY, its agents, officers and employees during Grantee's business hours upon reasonable request. In the event of earlier termination of this Agreement, such documentation shall be made available to DASNY, its agents, officers and employees for six (6) years following the date of such early termination.

4. Conditions Precedent to Disbursement of the Grant

No Grant funds shall be disbursed until the following conditions have been satisfied:

- a) DASNY has received the project description, budget, and timeline as set forth in the attached Exhibit A, and an opinion of Grantee's counsel, in substantially the form attached hereto as Exhibit B; and
- b) The requirements of the SAM Program have been met; and
- c) The monies required to fund the Grant have been received by DASNY; and
- d) In the event of disbursement pursuant to paragraph 5(b) below, the Grantee has provided DASNY with documentation evidencing that a segregated account has been established by the Grantee into which Grant funds will be deposited (the "Segregated Account"). Eligible Expenses incurred in connection with the Project to be financed with Grant proceeds that are to be paid on invoice shall be paid out of the Segregated Account. The funds in such account shall not be used for any other purpose.
- e) The Grantee certifies that it is in compliance with the provisions of the SAM Program as well as this Agreement and that the Grant will only be used for the Project set forth in the Preliminary Application or Project Information Sheet and in Exhibit A hereto.
- f) Not-for-profit organizations are required to register and prequalify on the New York State Grants Gateway (<https://grantsmanagement.ny.gov/>) in order to receive Grant funds. The Grantee's Document Vault must be in prequalification status prior to any disbursements of the grant funds.

5. Disbursement

Subject to the terms and conditions contained in this Agreement, DASNY shall disburse the Grant to the Grantee, in the manner set forth in Exhibit D, as follows:

- a) Reimbursement: DASNY shall make payment directly to the Grantee in the amount of Eligible Expenses actually incurred and paid for by the Grantee, upon presentation to DASNY of:
 - i. the Payment Requisition Forms attached to this Agreement as Exhibit E and its attachments;
 - ii. copies of invoices for Eligible Expenses from the Grantee's contractor and/or vendor and proof of payment from the Grantee to the contractor and/or vendor in a form acceptable to DASNY; and
 - iii. such additional supporting documentation as DASNY may require in order to clearly demonstrate that Eligible Expenses were incurred and paid by the Grantee in connection with the Project described herein; or

b) Payment on Invoice:

- i. DASNY may make payment directly to the Grantee in the amount of Eligible Expenses actually incurred by the Grantee, upon presentation to DASNY of:
 - 1) the Payment Requisition Forms attached to this Agreement as Exhibit E and its attachments;
 - 2) copies of invoices for Eligible Expenses from the Grantee's contractor and/or vendor in a form acceptable to DASNY evidencing the completion of work; and
 - 3) such additional supporting documentation as DASNY may require in order to clearly demonstrate that Eligible Expenses were incurred by the Grantee in connection with the Project described herein.
- ii. The Grantee must deposit all Grant proceeds paid on invoice pursuant to this paragraph 5(b) into the Segregated Account established pursuant to Paragraph 4(d). All Eligible Expenses incurred in connection with the Project to be financed with Grant funds that are to be paid on invoice must be paid out of this account. The account shall not be used for any other purpose.
- iii. The Grantee must provide proof of disbursement of Grant funds to the respective contractor and/or vendor in a form acceptable to DASNY, within sixty (60) days of the date that Grant funds are disbursed to the Grantee to pay for such costs. DASNY will not make any additional disbursements from Grant funds until such time as proof of payment is provided.
- iv. Utilizing the Grant funds paid to the Grantee pursuant to this section for any purpose other than paying the contractors and/or vendors identified in the requisition documentation in the amounts set forth in the requisition shall constitute a default under this Agreement and shall, at a minimum, result in the denial of payment on invoice for subsequent requisitions.
- v. DASNY may deny payment on invoice at its sole and absolute discretion, thereby restricting the method of payment pursuant to this contract to reimbursement subject to the terms of Section 5(a).

c) Real Property Acquisition:

- i. Prior to closing on the sale of the subject real property, DASNY shall be provided with an executed Escrow Instruction Letter, signed by DASNY and an escrow agent approved by DASNY, a title report, the draft deed and any other documents requested by DASNY to justify and support the costs to be paid at the closing from Grant funds.
- ii. DASNY shall transfer the Grant funds to the escrow agent to hold in escrow pending closing. The Grant funds will be wired to the escrow agent not more than one (1) business day prior to the scheduled closing unless otherwise approved by DASNY.

- iii. On the day of the closing, the escrow agent shall provide DASNY with copies of the executed deed, a copy of the title insurance policy, the final closing statement setting forth costs to be paid at closing, and copies of any checks to be drawn against Grant funds.
 - iv. Upon DASNY approval, the escrow agent shall disburse the Grant funds as set forth in the documentation described in (iii), above.
- d) Electronic Payments Program: DASNY reserves the right to implement an electronic payment program ("Electronic Payment Program") for all payments to be made to the Grantee thereunder. Prior to implementing an Electronic Payment Program, DASNY shall provide the Grantee written notice one hundred twenty days prior to the effective date of such Electronic Payment Program ("Electronic Payment Effective Date"). Commencing on or after the Electronic Payment Effective Date, all payments due hereunder by the Grantee shall only be rendered electronically, unless payment by paper check is expressly authorized by DASNY. Commencing on or after the Electronic Payment Effective Date the Grantee further acknowledges and agrees that DASNY may withhold any request for payment hereunder, if the Grantee has not complied with DASNY's Policies and Procedures relating to its Electronic Payment Program in effect at such time, unless payment by paper check is expressly authorized by DASNY.
- e) In no event will DASNY make any payment which would cause DASNY's aggregate disbursements to exceed the Grant amount.
- f) The Grant, or a portion thereof, may be subject to recapture by DASNY as provided in Section 9(c) hereof.

6. Non-Discrimination and Affirmative Action

The Grantee shall make its best effort to comply with DASNY's Non-Discrimination and Affirmative Action policies set forth in Exhibit F to this Agreement.

7. No Liability of DASNY or the State

DASNY shall not in any event whatsoever be liable for any injury or damage, cost or expense of any nature whatsoever that occurs as a result of or in any way in connection with the Project and the Grantee hereby agrees to indemnify, defend, and hold harmless DASNY, the State and their respective agents, officers, employees and directors (collectively, the "Indemnitees") from and against any and all such liability and any other liability for injury or damage, cost or expense resulting from the payment of the Grant by DASNY to the Grantee or use of the Project in any manner, including in a manner which, if the bonds are issued on a tax-exempt basis, (i) results in the interest on the bonds issued by DASNY the proceeds of which were used to fund the Grant (the "Bonds") to be includable in gross income for federal income tax purposes or (ii) gives rise to an allegation against DASNY by a governmental agency or authority, which DASNY defends that the interest on the Bonds is includable in gross income for federal income tax purposes, other than that caused by the gross negligence or the willful misconduct of the Indemnitees.

8. Warranties and Covenants

The Grantee warrants and covenants that:

- a) The Grant shall be used solely for Eligible Expenses in accordance with the Terms and Conditions of this Agreement.
- b) No materials, if any, purchased with the Grant will be used for any purpose other than the eligible Project costs as identified in Exhibit A.
- c) The Grantee agrees to utilize all funds disbursed in accordance with this Agreement in accordance with the terms of the SAM Program.
- d) The Grantee is solely responsible for all Project costs in excess of the Grant. The Grantee will incur and pay Project costs and submit requisitions for reimbursement in connection with such costs.
- e) The Grantee has sufficient, secured funding for all Project costs in excess of the Grant, and will complete the Project as described in the Preliminary Application or Project Information Sheet and in this Agreement.
- f) The Grantee agrees to use its best efforts to utilize the Project for substantially the same purpose set forth in this Agreement until such time as the Grantee determines that the Project is no longer reasonably necessary or useful in furthering the public purpose for which the grant was made.
- g) There has been no material adverse change in the financial condition of the Grantee since the date of submission of the Preliminary Application or Project Information Sheet to DASNY.
- h) No part of the Grant will be applied to any expenses paid or payable from any other external funding source, including State or Federal grants, or grants from any other public or private source.
- i) The Grantee owns, leases, or otherwise has control over the site where the Project will be located. If the Project includes vehicle purchase(s), removable equipment, or furnishings including but not limited to, computer hardware and software, air conditioning units, lab equipment, office furniture and telephone systems, the Grantee has or will develop, implement, and maintain an inventory system for tracking such items, as well as has or will develop, implement, and maintain a usage policy.
- j) In the event the Grantee will utilize the Grant funds to acquire real property, the Grantee must retain title ownership to the real property. If at any time during the term of this Agreement the real property is repurchased by the Seller or otherwise conveyed to any entity other than the Grantee, the Grantee will notify DASNY within 10 business days from the date the contract of sale is executed OR within 10 business days from the date the Grantee initiates or is notified of the intent to transfer ownership of the real property, whichever is earlier. In that event, Grantee hereby agrees to repay to DASNY all Grant funds disbursed pursuant to this Agreement.

- k) The Project to be funded by the Grant will be located in the State of New York. If the Grant will fund all or a portion of the purchase of any type of vehicle, such vehicle will be registered in the State of New York and a copy of the New York State Vehicle Registration documents will be provided to DASNY's Accounts Payable Department at the time of requisition.
- l) Grantee is in compliance with, and shall continue to comply in all material respects, with all applicable laws, rules, regulations and orders affecting the Grantee and the Project including but not limited to maintaining the Grantee's document vault on the New York State Grants Reform Gateway (<https://grantsmanagement.ny.gov/>).
- m) The Grantee has obtained all necessary consents and approvals from the property owner in connection with any work to be undertaken in connection with the Project.
- n) All contractors and vendors retained to perform services in connection with the Project shall be authorized to do business in the State of New York and/or filed such documentation, certifications, or other information with the State or County as required in order to lawfully provide such services in the State of New York. In addition, said contractor/vendors shall possess and maintain all professional licenses and/or certifications required to perform the tasks undertaken in connection with the Project.
- o) Neither the Grantee nor any of the members of its Board of Directors or other governing body or its employees have given or will give anything of value to anyone to procure the Grant or to influence any official act or the judgment of any person in the performance of any of the terms of this Agreement.
- p) The Grant shall not be used in any manner for any of the following purposes:
 - i. political activities of any kind or nature, including, but not limited to, furthering the election or defeat of any candidate for public, political or party office, or for providing a forum for such candidate activity to promote the passage, defeat, or repeal of any proposed or enacted legislation;
 - ii. religious worship, instruction or proselytizing as part of, or in connection with, the performance of this Agreement;
 - iii. payments to any firm, company, association, corporation or organization in which a member of the Grantee's Board of Directors or other governing body, or any officer or employee of the Grantee, or a member of the immediate family of any member of the Grantee's Board of Directors or other governing body, officer, or employee of the Grantee has any ownership, control or financial interest, including but not limited to an officer or employee directly or indirectly responsible for the preparation or the determination of the terms of the contract or other arrangement pursuant to which the proceeds of the Grant are to be disbursed. For purposes of this paragraph, "ownership" means ownership, directly or indirectly, of more than five percent (5%) of the assets, stock, bonds or other dividend or interest-bearing securities; and "control" means serving as a member of the board of directors or other governing body, or as an officer in any of the above; and

- iv. payment to any member of Grantee's Board of Directors or other governing body of any fee, salary or stipend for employment or services, except as may be expressly provided for in this Agreement.
- q) The relationship of the Grantee (including, for purposes of this paragraph, its officers, employees, agents and representatives) to DASNY arising out of this Agreement shall be that of an independent contractor. The Grantee covenants and agrees that it will conduct itself in a manner consistent with such status, that it will neither hold itself out as, nor claim to be, an officer, employee, agent or representative of DASNY or the State by reason hereof, and that it will not by reason thereof, make any claim, demand or application for any right or privilege applicable to an officer, employee, agent or representative of DASNY or the State, including without limitation, worker's compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.
- r) The information contained in the Preliminary Application or Project Information Sheet submitted by the Grantee in connection with the Project and the Grant, as such may have been amended or supplemented and any supplemental documentation requested by the State or DASNY in connection with the Grant, is incorporated herein by reference in its entirety. In the event of an inconsistency between the descriptions, conditions, and terms of this Agreement and those contained in the Preliminary Application or Project Information Sheet, the provisions of this Agreement shall govern. The Grantee hereby acknowledges that DASNY has relied on the statements and representations made by the Grantee in the Preliminary Application or Project Information Sheet and any supplemental information in making the Grant. The Grantee hereby represents and warrants that it has made no material misstatement or omission of fact in the Preliminary Application or Project Information Sheet, supplemental information, or otherwise in connection with the Grant and that the information contained in the Preliminary Application or Project Information Sheet and supplemental information continues on the date hereof to be materially correct and complete.
- s) The Grantee hereby represents and warrants that it has made no material misstatement or omission of fact in the Grantee Questionnaire ("GQ"), attached hereto as Exhibit C, or the Grantee's document vault in the New York State's Grants Reform Gateway completed by the Grantee in connection with the Project and the Grant, and that the responses in the GQ and the document vault continue on the date hereof to be materially correct and complete. The Grantee hereby acknowledges that DASNY has relied on the statements and representations made by the Grantee in the GQ in making the Grant, and that the Grantee will be required to reaffirm the information therein each time a requisition for grant funds is presented to DASNY.
- t) The Grantee is duly organized, validly existing and in good standing under the laws of the State of New York, or is duly organized and validly existing under the laws of another jurisdiction and is authorized to do business and is in good standing in the State of New York and shall maintain its corporate existence in good standing in each such jurisdiction for the term of this Agreement, and has full power and authority to execute and deliver the Agreement and to perform its obligations thereunder;

- u) The Grantee agrees to provide such documentation to DASNY as may be requested by DASNY in its sole and absolute discretion to support a requisition for payment, to determine compliance by the Grantee with the terms of this Agreement or otherwise reasonably requested by DASNY in connection with the Grant, and further acknowledges that if documentation requested in connection with a requisition for payment does not, in the sole and absolute discretion of DASNY, provide adequate support for the costs requested, that such requisition request shall be denied and payment shall not be made to the Grantee.
- v) The Agreement was duly authorized, executed and delivered by the Grantee and is binding on and enforceable against the Grantee in accordance with its terms.

9. Default and Remedies

- a) Each of the following shall constitute a default by the Grantee under this Agreement:
 - i. Failure to perform or observe any obligation, warranty or covenant of the Grantee contained herein, or the failure by the Grantee to perform the requirements herein to the reasonable satisfaction of DASNY and within the time frames established therefor under this Agreement.
 - ii. Failure to comply with any request for information reasonably made by DASNY to determine compliance by the Grantee with the terms of this Agreement or otherwise reasonably requested by DASNY in connection with the Grant.
 - iii. The making by the Grantee of any false statement or the omission by the Grantee to state any material fact in or in connection with this Agreement or the Grant, including information provided in the Preliminary Application or Project Information Sheet or in any supplemental information that may be requested by the State or DASNY.
 - iv. The Grantee shall (A) be generally not paying its debts as they become due, (B) file, or consent by answer or otherwise to the filing against it of, a petition under the United States Bankruptcy Code or under any other bankruptcy or insolvency law of any jurisdiction, (C) make a general assignment for the benefit of its general creditors, (D) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property, (E) be adjudicated insolvent or be liquidated or (F) take corporate action for the purpose of any of the foregoing.
 - v. An order of a court having jurisdiction shall be made directing the sale, disposition or distribution of all or substantially all of the property belonging to the Grantee, which order shall remain undismissed or unstayed for an aggregate of thirty (30) days.
 - vi. The Grantee abandons the Project prior to its completion.
 - vii. The Grantee is found to have falsified or modified any documents submitted in connection with this grant, including but not limited to invoice, contract or payment documents submitted in connection with a Grantee's request for payment/reimbursement.

viii. Utilizing the Grant funds paid to the Grantee pursuant to Section 5(b) for any purpose other than paying the contractors and/or vendors identified in the requisition documentation in the amounts set forth in the requisition.

- b) Upon the occurrence of a default by the Grantee and written notice by DASNY indicating the nature of the default, DASNY shall have the right to terminate this Agreement.
- c) Upon any such termination, DASNY may withhold any Grant proceeds not yet disbursed and may require repayment of Grant proceeds already disbursed. If DASNY determines that any Grant proceeds had previously been released based upon fraudulent representations or other willful misconduct, DASNY may require repayment of those funds and may refer the matter to the appropriate authorities for prosecution. DASNY shall be entitled to exercise any other rights and seek any other remedies provided by law.

10. Term of Agreement

Notwithstanding the provisions of Section 9 hereof, this Agreement shall terminate three (3) years after the latest date set forth on the front page hereof without any further notice to the Grantee. DASNY, in its sole discretion, may extend the term of this Agreement upon a showing by the Grantee that the Project is under construction and is expected to be completed within the succeeding twelve (12) months. All requisitions must be submitted to DASNY in proper form prior to the termination date in order to be reimbursed.

11. Project Audit

DASNY shall, upon reasonable notice, have the right to conduct, or cause to be conducted, one or more audits, including field inspections, of the Grantee to assure that the Grantee is in compliance with this Agreement. This right to audit shall continue for six (6) years following the completion of the Project or earlier termination of this Agreement.

12. Survival of Provisions

The provisions of Sections 3, 7, 8(o), 8(p) and 11 shall survive the expiration or earlier termination of this Agreement.

13. Notices

Each notice, demand, request or other communication required or otherwise permitted hereunder shall be in writing and shall be effective upon receipt if personally delivered or sent by any overnight service or three (3) days after dispatch by certified mail, return receipt requested, to the addresses set forth on this document's cover page.

14. Assignment

The Grantee may not assign or transfer this Agreement or any of its rights hereunder.

15. Modification

This Agreement may be modified only by a written instrument executed by the party against whom enforcement of such modification is sought.

16. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York. This Agreement shall be construed without the aid of any presumption or other rule of law regarding construction against the party drafting this Agreement or any part of it. In case any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such provision(s) had never been contained herein.

17. Confidentiality of Information

Any information contained in reports made to DASNY or obtained by DASNY as a result of any audit or examination of Grantee's documents or relating to trade secrets, operations and commercial or financial information, including but not limited to the nature, amount or source of income, profits, losses, financial condition, marketing plans, manufacturing processes, production costs, productivity rates, or customer lists, provided that such information is clearly marked "confidential" by the Grantee that concerns or relates to trade secrets, operations and commercial or financial information, including but not limited to the nature, amount or source of income, profits, losses or expenditures, financial condition, marketing plans, manufacturing processes, production costs, productivity rates, or customer lists, which is determined by DASNY to be exempt from public disclosure under the Freedom of Information Law, shall be considered business confidential and is not to be released to anyone, except DASNY and staff directly involved in assisting the Grantee, without prior written authorization from the Grantee, as applicable. Notwithstanding the foregoing, DASNY will not be liable for any information disclosed, in DASNY's sole discretion, pursuant to the Freedom of Information Law, or which DASNY is required to disclose pursuant to legal process.

18. Executory Clause

This Agreement shall be deemed executory to the extent of monies available for the SAM Program to DASNY.

City of Glen Cove
Rehabilitation of Morgan Memorial Park Seawall
Project ID 21566

This agreement is entered into as of the latest date written below:

GRANTEE: CITY OF GLEN COVE

DocuSigned by:

Timothy Tenke

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(Signature of Grantee Authorized Officer)

Timothy Tenke
(Printed Name and Title) Mayor

Date: 8/26/2021

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

DocuSigned by:

Paul Koopman

9620A9529A854E3...
(Signature of DASNY Authorized Officer)

Paul Koopman
(Printed Name) Vice President

Date: 9/2/2021

DASNY OFFICE USE ONLY

GRANTS ADMIN REVIEW		FINAL LEGAL REVIEW	
APPROVED FOR LEGAL REVIEW:	<small>DS</small> <i>KK</i>	APPROVED FOR SIGNATURE:	<small>DS</small> <i>RLH</i>
DATE:	9/1/2021	DATE:	9/2/2021

GRANT DISBURSEMENT AGREEMENT

EXHIBITS

EXHIBIT A	Project Budget
EXHIBIT B	Opinion of Counsel
EXHIBIT C	Grantee Questionnaire
EXHIBIT D	Disbursement Terms
EXHIBIT E	Payment Requisition Form and Dual Certification
EXHIBIT E-1	Payment Requisition Cover Letter
EXHIBIT E-2	Payment Requisition Back-up Summary
EXHIBIT F	Non-Discrimination and Affirmative Action Policy

EXHIBIT A: Project Budget

City of Glen Cove
Rehabilitation of Morgan Memorial Park Seawall
Project ID 21566

USE OF FUNDS	TIMELINE		SOURCES					Total
	Anticipated Dates**	DASNY Share	In-Kind/Equity/Sponsor		Other Sources			
Start			End	Amount	Source Name	Amount	Entity Name	Amount
Project Description*								
Rehabilitation of Morgan Memorial Park Seawall	08/26/2021	08/26/2024	\$250,000	City of Glen Cove	\$300,000		\$0	\$550,000

* Please note that the project description as set forth in this column must summarize the scope of the Eligible Expenses set forth in the Preliminary Application or Project Information Sheet as per Section 2(a) of this Agreement for which reimbursement or payment on invoice will be sought. Please ensure that the project description is an appropriate summary of the Eligible Expenses for which grantee will be submitting for requisition. The failure to ensure all Eligible Expenses are consistent with the project description may delay payment.

** Please be sure to complete the anticipated start and end dates in the Project timeline.

EXHIBIT B: Opinion of Counsel

DASNY
General Counsel
515 Broadway
Albany, New York 12207

*Re: State and Municipal Facilities Program ("SAM") Grant
Rehabilitation of Morgan Memorial Park Seawall
Project ID 21566*

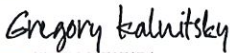
Ladies and Gentlemen:

I have acted as counsel to City of Glen Cove (the "Grantee") in connection with the Project referenced above. In so acting, I have reviewed a certain Grant Disbursement Agreement between you and the Grantee (the "Agreement") and such other documents as I consider necessary to render the opinion expressed hereby.

Based on the foregoing, I am of the opinion that:

1. the Grantee is duly organized, validly existing and in good standing under the laws of the State of New York or, is duly organized and validly existing under the laws of another jurisdiction. The Grantee is authorized to do business and is in good standing in the State of New York and has full power and authority to execute and deliver the Agreement and to perform its obligations thereunder; and
2. the Agreement was duly authorized, executed and delivered by the Grantee and is binding on and enforceable against the Grantee in accordance with its terms.

x By selecting this option and providing my electronic signature, I hereby execute and deliver a validly binding legal opinion in the form of this Exhibit B, just the same as a pen-and-paper signature on a separate document.

DocuSigned by:

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Gregory Kalnitsky

City Attorney

Approved – Legal Opinion attached

****Instructions – Grantee's Attorney will choose appropriate response . If "Approved as to form" is checked, the Attorney will DocuSign form. If "Approved – Legal Opinion attached" is checked, the Attorney must attach a legal opinion using the language provided in this exhibit.**

EXHIBIT C: Grantee Questionnaire

PLEASE READ THE FOLLOWING:

- 1) You are acknowledging the following regarding the included Grantee Questionnaire:
 - This inserted Grantee Questionnaire is an accurate and true copy of such previously submitted DASNY Grantee Questionnaire.
 - The Grantee certifies that there has been no material change in the information provided in the Grantee Questionnaire.



DASNY OFFICE USE ONLY	
GQ Review	
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> DS VB </div>	10/30/2020

Grant Programs
Municipal Grantee Questionnaire

THIS QUESTIONNAIRE MUST BE COMPLETED IN FULL BEFORE DASNY WILL PROCESS YOUR GRANT APPLICATION. THE COMPLETED QUESTIONNAIRE WILL BE KEPT ON FILE FOR ONE (1) YEAR. THE GRANTEE MUST NOTIFY DASNY, IN WRITING OF ANY CHANGES TO THESE RESPONSES.

SECTION I: GENERAL INFORMATION

1. Grantee (Legally Inc. Name): City of Glen Cove
2. Federal Employer ID No. (FEIN): 11-6000350
3. Website Address: www.glencove-li.us
4. Business E-mail Address: ttenke@glencoveny.gov
5. Principal Place of Business Address: 9 Glen Street, Glen Cove NY 11542
6. Telephone Number: 516-676-2004
7. Type of Entity (Please select appropriate response):
 - a) County
 - b) ☒ City
 - c) Town
 - d) Village
 - e) Public Benefit Corporation
 - f) Fire District
 - g) School District
 - h) Soil or Water Conservation District
 - i) State University or City University of New York (including Community Colleges)
 - j) Public Library
 - k) BOCES
 - l) Other Please Specify: _____

SECTION II: GRANTEE CERTIFICATION AS TO PUBLIC PURPOSE

A. DEFINITIONS

As used herein in this Grant Programs Municipal Grantee Questionnaire:

1. "Affiliate" means any person or entity that directly or indirectly controls or is controlled by or is under common control or ownership of a Related Party.
2. "Authorized Officer" is someone who can contractually bind the organization to a legal contract. If you do not know who this is, please consult with your attorney. DASNY will not be able to provide you with this information.
3. "Grantee" means the party or parties receiving funds pursuant to the terms of Grant Disbursement Agreement(s) ("GDA") to be entered into between the Grantee and DASNY.
4. "Grant-Funded Project" means the work that will be fully or partially paid for with the proceeds of one or more Grants administered by DASNY, as described in the Preliminary Application(s), Project Information Sheet(s) and GDA(s), and includes, but is not limited to, capital costs including architectural, engineering and other preliminary planning costs, construction, furnishings and equipment.
5. "Related Party" means: (i) the party's spouse, (ii) natural or adopted descendants or step-children of the party or of the spouse, (iii) any natural or adopted parent or step-parent or any natural, adopted, or step-sibling of the party or of the spouse, (iv) the son-in-law, daughter-in-law, brother-in-law, sister-in-law, father-in-law or mother-in-law of the party or of the spouse, (v) any person sharing the home of any of the party or of the spouse, (vi) any person who has been a staff member, employee, director, officer or agent of the party within two (2) years of the date of this Grantee questionnaire, and (vii) affiliates or subcontractors of the party.
6. "Sponsoring Member(s)" means the Elected State Official who sponsored, arranged for and/or procured the Grant.

B. GRANT AWARD(S)

- | | | | | |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|---|
| 1. | Has the Grantee or any of the Grantee's Related Parties paid any third party or agent, either directly or indirectly, to aid in the securing of a Grant? | Yes | No | x |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|---|

If answer is "Yes", Please explain:

--

2. Has the Grantee or any of the Grantee's Related Parties agreed to select specific consultants, contractors, suppliers or vendors to provide goods or services in connection with any Grant-Funded Project as a condition of receiving a Grant? Yes No ☒

If answer is "Yes", Please explain:

3. Does the Grantee have a conflict of interest policy? Yes ☒ No

- a) If "Yes", will all consultants, contractors, suppliers and vendors selected to provide goods or services in connection with any Grant-Funded Project be chosen in accordance with the Grantee's conflict of interest policy, or if consultants, suppliers and vendors retained in connection with a Grant-Funded Project have already been selected, was the selection undertaken in accordance with the Grantee's conflict of interest policy? Yes ☒ No

If answer is "No", Please explain:

4. Does the Sponsoring Member(s) or any Related Parties to Sponsoring Member(s) have any financial interest, direct or indirect, in the Grantee or in any of the Grantee's equity owners, or will the Sponsoring Members or any Related Parties to Sponsoring Members receive any financial benefit, either directly or indirectly, from the Grant-Funded Project(s) funded in whole or in part with Grant proceeds? Yes No ☒

If the answer is "Yes", please provide details:

SECTION III: DUE DILIGENCE QUESTIONS

1. Does the Grantee currently possess all certifications, licenses, permits, approvals, or other authorizations issued by any Local, State, or Federal governmental entity in connection with any Grant-Funded Project, Grantee's services, operations, business, or ability to conduct its activities? *Please note this does not include construction related activities such as building permits and certificates of occupancy for any Grant-Funded project.* Yes ☒ No

If the answer is "No", will the Grantee obtain all required certifications, licenses, permits, approvals, or other authorizations issued by Local, State, or Federal Governmental entity in connection with any Grant-Funded Project, Grantee's services, operations, business or ability to conduct its activities prior to the execution of the Grant Disbursement Agreement for that Grant-Funded Project? If the answer is "No", please explain:

2. Within the past five (5) years, has the Grantee or any Elected or Appointed Official on the Governing Board, Zoning Board, Planning Board, or other Municipal Board or body of the Grantee been subject to any of the following:
- | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----------------------------------------|
| a) A judgment or conviction for any business-related conduct constituting a crime under Federal, State or Local government law? | Yes | No <input checked="" type="checkbox"/> |
| b) Been suspended, debarred or terminated by a Local, State or Federal authority in connection with a contract or contracting process? | Yes | No <input checked="" type="checkbox"/> |
| c) Been denied an award of a Local, State or Federal government contract, had a contract suspended or had a contract terminated for non-responsibility? | Yes | No <input checked="" type="checkbox"/> |
| d) Had a Local, State, or Federal government contract suspended or terminated for cause prior to the completion of the term of the contract? | Yes | No <input checked="" type="checkbox"/> |
| e) A criminal investigation or indictment for any business-related conduct constituting a crime under Federal, State or Local government? | Yes | No <input checked="" type="checkbox"/> |
| f) An investigation for a civil violation for any business-related conduct by any Federal, State or Local agency? | Yes | No <input checked="" type="checkbox"/> |
| g) An unsatisfied judgment, injunction or lien for any business-related conduct obtained by any Federal, State or Local government agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any Federal, State or Local government agency? | Yes | No <input checked="" type="checkbox"/> |

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| h) A grant of immunity for any business-related conduct constituting a crime under Federal, State or Local law including, but not limited to any crime related to truthfulness and/or business conduct? | Yes No <input checked="" type="checkbox"/> |
| i) An administrative proceeding or civil action seeking specific performance or restitution in connection with any Federal, State or Local contract or lease? | Yes No <input checked="" type="checkbox"/> |
| j) The withdrawal, termination or suspension of any grant or other financial support by any Federal, State, or Local agency, organization or foundation? | Yes No <input checked="" type="checkbox"/> |
| k) A suspension or revocation of any business or professional license held by the Grantee, a current or former principal, director, or officer of the Grantee, or any member of the any current or former staff of the Grantee? | Yes No <input checked="" type="checkbox"/> |
| l) A sanction imposed as a result of judicial or administrative proceedings relative to any business or professional license? | Yes No <input checked="" type="checkbox"/> |
| m) A Federal, State or Local government enforcement determination involving a violation of Federal, State or Local laws? | Yes No <input checked="" type="checkbox"/> |
| n) A citation, notice, violation order, pending administrative hearing or proceeding or determination for violations of: | |
| - Unemployment insurance or workers' compensation coverage or claim requirements | Yes No <input checked="" type="checkbox"/> |
| - A Federal, State, or Local determination of a willful violation of any public works or labor law or regulation? | Yes No <input checked="" type="checkbox"/> |

For each "Yes" answer to questions 2a-n, provide details regarding the finding, including but not limited to cause, current status, resolution, etc.

3. During the past three (3) years, has the Grantee **failed** to file documentation requested by any regulating entity, with the Attorney General of the State of New York, or with any other Local, State, or Federal entity that has made a formal request for information? Yes No ☒

If "Yes", indicate the years the Grantee fails to file the requested information and the current status of the matter:

4. During the past three (3) years, has the Grantee had any Governmental audits conducted that revealed material weaknesses in the Grantee's system of internal controls or was non-compliant with contractual agreements or any material disallowance? Yes No ☒

If "Yes", please provide details and what has been done to rectify the weakness or non-compliance(s). If a Corrective Action Plan was required, please provide details:

CERTIFICATION

The Grantee certifies that all funds that will be expended pursuant to the terms of a GDA to be entered into between DASNY and the Grantee are to be used solely and directly for the public purpose or public purposes described in the Preliminary Application, Project Information Sheet and GDA. The Grantee further certifies that all such funds will be used solely in the manner described in the Preliminary Application, Project Information Sheet, and GDA. The Grantee further certifies that it will utilize the real property, equipment, furnishings, and other capital costs paid for with Grant proceeds until such time as the Grantee reasonably determines that such real property, equipment, furnishings and other capital costs are no longer reasonably necessary or useful to further the public purpose for which the Grant was made.

The undersigned recognizes that this questionnaire is submitted for the express purpose of inducing DASNY to make payment to the Grantee for services rendered by the undersigned and that DASNY may in its discretion, by means which it may choose, determine the truth and accuracy of all statements made herein. The undersigned further acknowledges that intentional submission of false or misleading information may constitute crimes, including but not limited to, a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine of up to \$10,000 or imprisonment of up to five years under 18 U.S.C. Section 1001; and swears and/or affirms under penalty of perjury that the information submitted in this questionnaire and any attached pages is true, accurate and complete.

The undersigned also certifies that s/he has not altered the content of the questions in the questionnaire in any manner; has read and understands all of the items contained in the questionnaire and any attached pages; has supplied full and complete and accurate responses to each item therein; is knowledgeable about the submitting Grantee's business and operations; understands that DASNY will rely on the information supplied in this questionnaire when entering into a contract with the Grantee; and is under duty to notify DASNY of any changes to the Grantee's responses herein until such time as the Grant proceeds have been fully paid out to Grantee.

DocuSigned by:

Timothy Tenke

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Signature of Authorized Officer

DocuSigned by:

Michael Piccirillo

E667D31A2CCF45D...

Signature of Authorized Officer

Timothy Tenke

Printed Name of Authorized Officer

Michael Piccirillo

Printed Name of Authorized Officer

Mayor

Title of Authorized Officer

Controller

Title of Authorized Officer

10/2/2020

Date Signed

10/29/2020

Date Signed

EXHIBIT D: Disbursement Terms

City of Glen Cove
Rehabilitation of Morgan Memorial Park Seawall
Project ID 21566

Subject to the terms and conditions contained in this Agreement, DASNY shall disburse the Grant to the Grantee as follows:

Standard Reimbursement

DASNY shall make payment to the Grantee, no more frequently than monthly, based upon Eligible Expenses (as set forth and in accordance with the schedule in Exhibit A) actually incurred by the Grantee, in compliance with Exhibit A and upon presentation to DASNY of the Payment Requisition Forms attached to this Agreement as Exhibit E and its attachments, together with such supporting documentation as DASNY may require in order to clearly demonstrate that Eligible Expenses were actually incurred by the Grantee in connection with the Project described herein. Payment shall be made by reimbursement, subject to the terms and conditions of Sections 4 and 5(a) of this Agreement; by payment on invoice subject to the terms and conditions of Sections 4 and 5(b) of this Agreement; or, for real property acquisition, subject to the terms and conditions of Sections 4 and 5(c) of this Agreement.

Supporting documentation acceptable to DASNY must be provided prior to payment, including invoices and proof of payment in a form acceptable to DASNY. If the fronts and backs of canceled checks cannot be obtained from the Grantee's financial institution, a copy of the front of the check must be provided, along with a copy of a bank statement clearly showing that payment was made by the Grantee to the contractor. DASNY reserves the right to request additional supporting documentation in connection with requests for payment, including the backs of canceled checks, certifications from contractors or vendors, or other documentation to verify that grant funds are properly expended. *Please note that quotes, proposals, estimates, purchase orders, and other such documentation **do NOT** qualify as invoices.*

The Grantee agrees to provide such documentation to DASNY as may be requested by DASNY in its sole and absolute discretion to support a requisition for payment, to determine compliance by the Grantee with the terms of this Agreement or otherwise reasonably requested by DASNY in connection with the Grant, and further acknowledges that if documentation requested in connection with a requisition for payment does not, in the sole and absolute discretion of DASNY, provide adequate support for the costs requested, that such requisition request shall be denied and payment shall not be made to the Grantee.

All expenses submitted for reimbursement or payment on invoice must be for work completed at the approved Project location(s) and/or items received at the approved Project location(s) prior to the date of the request for reimbursement/payment. In addition, if funds are requisitioned for the purchase of a vehicle, the New York State Vehicle Registration Documents and title must be submitted along with the requisition forms.

EXHIBIT E: Payment Requisition Form and Dual Certification

City of Glen Cove
 Rehabilitation of Morgan Memorial Park Seawall
 Project ID 21566

For Office Use Only:

FMS#: **GranteeID:** 187 **GrantID:** 23619

Payment Request # _____

For work completed between _____ / _____ / _____ and _____ / _____ / _____

THIS REQUEST:

A: DASNY SHARE*		B: THIS REQUEST	C: TOTAL REQUESTED PRIOR TO THIS REQUEST	D: A-B-C BALANCE
\$	250,000			

- * Please note that when submitting a requisition for payment, DASNY can only reimburse for capital expenditures for the Project as set forth in Exhibit A of this Agreement. In addition, all capital expenditures are to be both incurred (billed to) and paid for by the named Grantee. Capital expenditures include the costs of acquisition, design, construction, reconstruction, rehabilitation, preservation, development, improvement, modernization and equipping of the approved Project location.

EXHIBIT E: Payment Requisition Form and Dual Certification

DUAL CERTIFICATION

This certification must be signed by two Authorized Officers of the City of Glen Cove, for Project # 21566.

We hereby warrant and represent to DASNY that:

1. To the best of our knowledge, information and belief, the expenditures described in Payment Requisition Request # _____ attached hereto in the amount of \$ _____ for which City of Glen Cove, is seeking payment and/or reimbursement comply with the requirements of the Agreement between DASNY and City of Glen Cove (the "Agreement"), are Eligible Expenses, and that the payment and/or reimbursement of expenditures for which it is seeking payment and/or reimbursement from DASNY does not duplicate reimbursement or disbursement of costs and/or expenses from any other source.
2. The warranties and covenants contained in Section 8 of the Agreement are true and correct as if made on the date hereof.
3. The Eligible Expenses for which reimbursement is sought in connection with this requisition were actually incurred by the Grantee named on the cover page of this Agreement, and/or will be paid by the Grantee solely from the Segregated Account established pursuant to paragraph 4(d) of the Grant Disbursement Agreement to the contractor named on the invoices submitted in connection with this requisition and shall not be used for any other purpose.
4. All Project costs described in any contractor/vendor invoice submitted pursuant the payment requisition form have been completely and fully performed and/or received on site at the applicable project location prior to the date hereof.
5. Proof of disposition of funds from the Segregated Account to the contractor and/or vendors that are being paid on invoice, if any, will be provided to DASNY within sixty (60) days of the date that Grant funds are disbursed to the Grantee to pay for such costs. We understand that in the event that acceptable proof of payment is not provided, DASNY will not make any additional disbursements from Grant funds until such time as such proof of payment is provided.
6. We have the authority to submit this requisition on behalf of City of Glen Cove. All eligible expenses have been incurred within the scope of the project description set forth in the schedule in Exhibit A to this Agreement.
7. The following documents are hereby attached for DASNY approval, in support of this requisition, and are accurate images of the original documents **(Please check off all that apply):**
 - ☐ Readable copies of both front and back of canceled checks.
 - ☐ Readable copies of the front of the checks and copies of bank statements showing that the checks have cleared.
 - ☐ Copy of New York State Vehicle Registration and Title documents for all vehicles purchased with Grant funds.
 - ☐ Invoices/receipts for eligible goods/services that have been received/performed at the approved Project location(s) and a completed Exhibit E-2: Payment Requisition Back-up Summary.
 - ☐ Other:

Authorized Officer Signature: _____

Date: _____

Print Name: _____

Title: _____

Authorized Officer Signature: _____

Date: _____

Print Name: _____

Title: _____

EXHIBIT E-I: Payment Requisition Cover Letter

ON GRANTEE'S LETTERHEAD

Date

Attention: Accounts Payable - Grants
DASNY
515 Broadway
Albany, New York 12207

*Re: State and Municipal Facilities Program ("SAM") Grant
Rehabilitation of Morgan Memorial Park Seawall
Project No. 21566*

To Whom It May Concern:

Enclosed please find our request for payment/reimbursement. The package includes completed Exhibits E and E-2, including a Dual Certification with original signatures from two authorized officers. I have also included supporting documentation and invoices, as summarized in Exhibit E-2.

Below I have checked off the relevant payment option and completed the required payment information. This information is complete and accurate as of the date of this letter:

1)	<input type="checkbox"/>	We would like to be paid by reimbursement pursuant to section 5(a) of the grant disbursement agreement. Proof of payment is enclosed for all invoices submitted in this request. Please remit payment by check.
OR		
2)	<input type="checkbox"/>	We would like to be paid by reimbursement pursuant to section 5(a) of the grant disbursement agreement. Proof of payment is enclosed for all invoices submitted in this request. Please remit payment by wire. The wire instructions for our account are as follows: BANK NAME: _____ ACCOUNT #: _____ ACCOUNT NAME: _____ ABA #: _____
OR		
3)	<input type="checkbox"/>	We would like to be paid on invoice pursuant to Section 5(b) of the grant disbursement agreement. We have not paid the invoice(s) included in this request. We have established a segregated account to be used solely for accepting and disbursing funds from DASNY for this grant and for no other purpose. The wire instructions for this account are as follows: BANK NAME: _____ ACCOUNT #: _____ ACCOUNT NAME: _____ ABA #: _____

If any further information is needed, please contact me at () _____.

Please sign and return these documents to DASNY at apgrants@dasny.org. Please return them from the Grantee's organizational email address and retain the original copies for production to DASNY if requested. By providing electronic signature(s), the Grantee's designee will be providing validly binding legal documents, just the same as a pen-and-paper signature.

Signature: _____

Print Name: _____

Title: _____

EXHIBIT E-2: Payment Requisition Back-up Summary

City of Glen Cove
Rehabilitation of Morgan Memorial Park Seawall
Project ID 21566

Please list below all invoice amounts totaling the amount for which you are seeking reimbursement in this request. Invoices should be organized and total amount requested for reimbursement from grant subtotaled. Please use additional sheets if necessary.

VENDOR/ CONTRACTOR NAME	INVOICE/ APPLICATION #	AMOUNT REQUESTED FROM GRANT FUNDS	COMMENT
TOTAL Requested:			(Transfer total amount requested to Exhibit E pg. 18 column B)

EXHIBIT F

NON-DISCRIMINATION AND AFFIRMATIVE ACTION POLICY FOR THE PROJECT

It is the policy of the State of New York and DASNY, to comply with all federal, State and local law, policy, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action to ensure that Minority and Women-owned Business Enterprises (M/WBEs), Minorities Group Members and women share in the economic opportunities generated by DASNY's participation in projects or initiatives, and/or the use of DASNY funds.

- 1) The recipient of State funds represents that its equal employment opportunity policy statement incorporates, at a minimum, the policies and practices set forth below:
 - a) Grantee shall (i) not unlawfully discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, (ii) undertake or continue existing programs of affirmative action to ensure that Minority Group Members and women are afforded equal employment opportunities, and (iii) make and document its conscientious and active efforts to employ and utilize M/WBEs, Minority Group Members and women in its workforce on contracts. Such action shall be taken with reference to, but not limited to, solicitations or advertisements for employment, recruitment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
 - b) At the request of the AAO, the Grantee shall request each employment agency, labor union, or authorized representative of workers with whom it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative does not unlawfully discriminate, and that such union or representative will affirmatively cooperate in the implementation of the Grantee's obligations herein.
- 2) The Grantee is encouraged to include minorities and women in any job opportunities created by the Project; and to solicit and utilize M/WBE firms for any contractual opportunities generated in connection with the Project.
- 3) Grantee represents and warrants that, for the duration of the Agreement, it shall furnish all information and reports required by the AAO and shall permit access to its books and records by DASNY, or its designee, for the purpose of ascertaining compliance with provisions hereof.
- 4) Grantee shall include or cause to be included, paragraphs (1) through (3) herein, in every contract, subcontract or purchase order with a Contracting Party executed in connection with the Project, in such a manner that said provisions shall be binding upon each Contracting Party as to its obligations incurred in connection with the Project.

NON-DISCRIMINATION AND AFFIRMATIVE ACTION DEFINITIONS

Affirmative Action

Shall mean the actions to be undertaken by the Borrower, Grantee and any Contracting Party in connection with any project or initiative to ensure non-discrimination and Minority/Women-owned Business Enterprise and minority/female workforce participation, as set forth in paragraph 2) herein, and developed by DASNY.

Affirmative Action Officer ("AAO")

Shall mean DASNY's Affirmative Action Officer or his/her designee, managing the affirmative action program for DASNY.

Contracting Party

Shall mean (i) any contractor, subcontractor, consultant, subconsultant or vendor supplying goods or services, pursuant to a contract or purchase order in excess of \$1,500, in connection with any projects or initiatives funded in whole or in part by DASNY and (ii) **any borrower or Grantee** receiving funds from DASNY pursuant to a loan or Grant document.

Minority Business Enterprise ("MBE")

Shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is (i) a lease fifty-one percent (51%) owned by one or more Minority Group Members; (ii) an enterprise in which such minority ownership is real, substantial and continuing, (iii) an enterprise in which such minority ownership has and exercises DASNY to control and operate, independently, the day-to-day business decisions of the enterprise; (iv) an enterprise authorized to do business in the State of New York and is independently owned and operated; and (v) an enterprise certified by New York State as a minority business.

Minority Group Member

Shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (i) Black persons having origins in any of the Black African racial groups; (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race; (iii) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands; and (iv) Native American or Alaskan native persons having origins in any of the original peoples of North America.

Minority and Women-Owned Business Enterprise Participation

Minority and Women-owned Business Enterprise participation efforts are not limited to the efforts suggested herein, and the role of M/WBE firms should not be restricted to that of a subcontractor/subconsultant. Where applicable, M/WBE firms should be considered for roles as prime contractors. Such efforts may include but not be limited to:

- (a) Dividing the contract work into smaller portions in such a manner as to permit subcontracting to the extent that it is economically and technically feasible to do so;
- (b) Actively and affirmatively soliciting bids from qualified M/WBEs, including circulation of solicitations to Minority and Women's trade associations;
- (c) Making plans and specifications for prospective work available to M/WBEs in sufficient time for review;

- (d) Utilizing the services and cooperating with those organizations providing technical assistance to the Contracting Party in connection with potential M/WBE participation on DASNY contract;
- (e) Utilizing the resources of DASNY Affirmative Action Unit to identify New York State certified M/WBE firms for the purpose of soliciting bids and subcontracts;
- (f) Encouraging the formation of joint ventures, associations, partnerships, or other similar entities with M/WBE firms, where appropriate, and
- (g) The Contracting Party shall remit payment in a timely fashion.

Women-owned Business Enterprise ("WBE")

Shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (i) at least fifty-one percent (51%) owned by one or more citizens or permanent resident aliens who are women; (ii) an enterprise in which the ownership interest of such women is real, substantial and continuing, (iii) an enterprise in which such women ownership has and exercises DASNY to control and operate, independently, the day-to-day business decisions of the enterprise; (iv) an enterprise authorized to do business in the State of New York and is independently owned and operated; and (v) an enterprise certified by New York State as woman-owned.