

**EXCLUSIVE REPRESENTATION AGREEMENT
FOR LEASE OF, OR LICENSE TO USE MUNICIPAL PROPERTY**

THIS EXCLUSIVE REPRESENTATION AGREEMENT ("Agreement"), between Bench Strength Partners, Inc., a corporation located at 26 First Street, Pelham, NY 10803 ("BSP") and the City of Glen Cove, NY having its principal office at 9 Glen Street, Glen Cove, NY 11542 ("CLIENT").

The **CLIENT** hereby designates **BSP** as its sole representative and grants **BSP** the exclusive right to negotiate Contractual Arrangements ("CA") (as hereinafter defined) for the use of space on **CLIENT** property for the placement of cellular antennas and related equipment including the installation of small cell systems based on the terms and conditions contained herein.

1. **TERM:** The term of this Agreement commences on the date of execution based on the date of the last party to execute this Agreement (the "Effective Date"), and will end on the 5th anniversary of such date. This Agreement may not be terminated unless a party breaches the Agreement or until the second anniversary of the Effective Date. This Agreement may be terminated by **CLIENT** at any time after such second anniversary. In the event of such a termination, **BSP** shall be entitled to a fee, computed and payable in accordance with this Agreement, if the **CLIENT** concludes a new CA or modification to an existing CA for the placement of cellular antennas and related equipment within two (2) years from the date of such termination, provided that **BSP** has, during the period from the Effective Date though the date of termination of this Agreement, either earned a fee as set forth in paragraph 5, or where no fee has been earned but **BSP** has negotiated with a carrier during the period from the Effective Date though the date of termination of this Agreement and has submitted a proposed CA and/or a **CLIENT** approved Term Sheet, Heads Of Terms or a draft CA to the **CLIENT** or carrier prior to such termination of this Agreement.
2. **SCOPE of AGREEMENT:** **CLIENT** appoints **BSP** as its sole and exclusive representative for the negotiation of CAs for the usage of space on **CLIENT** property for the placement of cellular antennas and related equipment including the installation of small cell systems for all location(s) owned or managed by **CLIENT**, unless **CLIENT** excludes in writing any locations owned or managed by **CLIENT**. CAs, as used in this Agreement, means (a) leases, licenses, franchise agreements, master license agreements, lease buyouts or other agreements for the use of space on **CLIENT** property or in the Public Right of Way that falls within the legal boundaries of the **CLIENT**, for the placement of cellular antennas and related equipment including small cell systems, (b) renewals of existing leases or licenses, (c) new leases or licenses for carriers that seek new or additional space on **CLIENT** property, (d) renegotiation of existing leases or licenses should that occur outside the context of a lease or license renewal. **BSP** shall not be responsible for drafting the CA. Instead, **BSP** will work with **CLIENT** counsel and suggest model lease terms for **CLIENT**'s counsel to incorporate into the final CA, or other form of CA.
3. **BSP SERVICES:** **BSP** will provide its best efforts to negotiate CAs acceptable to **CLIENT**. All proposals prepared by **BSP**, and all offers and counter offers received by **BSP** are subject to the **CLIENT** approval. **CLIENT** is not bound to accept CAs negotiated by **BSP**. If **BSP** reasonably determines that it is necessary, in its sole and absolute discretion, to retain other experts as part of the negotiation process, **BSP** will engage such experts at its own cost.

4. **CLIENT REFERRALS:** **CLIENT** shall refer to **BSP** all inquiries and offers received by **CLIENT** regarding the lease or licenses for the usage of space on property owned or managed by **CLIENT** including property in a Public Right of Way that falls within the legal boundaries of the **CLIENT**, including any offer to buy out the revenue stream from the lease or offer to lease any **CLIENT** property for the placement of cellular antennas and related equipment including small cell systems. All negotiations for CAs will be conducted solely by **BSP** or under **BSP**'s direction, subject to **CLIENT**'s review and final approval.
5. **BSP FEES:** **CLIENT** agrees to compensate **BSP**, and **BSP** agrees to accept compensation for its services, based on the Fee Schedule included as part of this Agreement as Exhibit A. **CLIENT** and **BSP** agree that the Fee Schedule is a success fee structure, and that no fee will be earned by **BSP** unless specific economic results are achieved, all as more particularly defined on Exhibit A.
6. **PROPERTY INFORMATION:** **CLIENT** acknowledges that **BSP** is not responsible to determine whether toxic or hazardous wastes, substances, or levels of radio frequency emissions or undesirable materials or conditions currently exist or that could potentially exist in the future at all locations covered by this Agreement. **CLIENT** acknowledges that it is solely **CLIENT**'s responsibility to conduct investigations to determine the presence of such materials or conditions.
7. **INSURANCE:**
 - a. **Insurance Requirements.** **BSP** shall, at its expense, maintain insurance in full force and effect during the term of this Agreement in such amounts as to meet the minimum limits of liability specified below:
 - i. Comprehensive General Liability with limits no less than \$2,000,000 per occurrence, and \$4,000,000 general aggregate limit, including but not limited to, bodily injury and property damage.
 - ii. Business Automobile Liability with limits no less than \$1,000,000 each occurrence including non-owned and hired automobile liability.
 - iii. Workers' Compensation Coverage in statutory amounts including Employees Liability Insurance in limits of \$1,000,000 per employee.
 - iv. Professional Liability Coverage in the amount of \$2,000,000 each claim and a \$2,000,000 aggregate limit.
 - b. Requirements for All Insurance. All insurance required in this paragraph shall be taken out and maintained in responsible insurance companies organized under the laws of the states of the United States and licensed to do business in the State of New York and with companies or underwriters satisfactory to the **CLIENT**.
 - c. Additional Insureds. The **CLIENT** shall be named as additional insured on each of the **BSP**'s policies above except the Workers' Compensation policy, as and if required by written contract.
 - d. Insurance Primary. All insurance policies required above shall be primary and shall not require contribution from any coverage maintained by **CLIENT**, as and if required by written contract.
 - e. Insurance Certificate. Certificates showing that **BSP** is carrying the above-described insurance in the specified amounts shall be furnished to **CLIENT** prior to the execution of this Agreement, and a certificate showing continued maintenance of such insurance shall be filed with **CLIENT** during the term of this Agreement. Failure of **BSP** to provide the required certificates of insurance does not invalidate or eliminate any of the

insurance requirements contained herein or relieve **BSP** from any responsibility to carry the required types and amounts of insurance.

- f. Notices of Change or Cancellation are provided per the terms and conditions of the insurance policies in effect at the time of the change or cancellation
- g. Disclaimer. **CLIENT** does not represent or guarantee that these types or limits of coverage are adequate to protect the **BSP's** interests and liabilities. It shall be the obligation and responsibility of **BSP** to insure, as it deems prudent, its own personal property, against damage. The **CLIENT** does not have insurance coverage for **BSP's** property and **CLIENT** expressly disclaim all liability for all losses, damage and/or claims to personal possessions of **BSP**.

8. **INDEMNITY.** **BSP** shall defend, indemnify and hold **CLIENT** and its employees, officers, and agents harmless from and against any and all cost or expenses, claims or liabilities, including but not limited to, reasonable attorneys' fees and expenses in connection with any claims directly resulting from the **BSP's** a) breach of this Agreement or b) its negligence or misconduct or that of its experts, agents or contractors in performing the Services hereunder or c) any claims directly arising in connection with **BSP's** employees, agents, experts or contractors, or d) the use of any materials supplied by the **BSP** to the **CLIENT** unless such material was modified by **CLIENT** and such modification is the cause of such claim. This Paragraph shall survive the termination of this Agreement for any reason. **CLIENT** has the discretion and absolute right to choose to enter or not to enter any new or modified CAs. **BSP** does not guaranty any future lease revenue amounts, as that is specifically conditioned on the terms of any CAs accepted by **CLIENT**. Accordingly, this indemnification shall not be construed to include any loss from the decline of license or lease revenue that may occur in the future.

9. **DATA, RECORDS, AND INSPECTION.**

- a. The **CLIENT** agrees that it will make available all pertinent information, data, and records under its control for **BSP** to use in the performance of this Agreement, or to assist **BSP** wherever possible to obtain such records, data, and information.
- b. Records shall be maintained by **BSP** with respect to all matters covered by this Agreement. Such records shall be maintained for a period of six (6) years after execution of a CA negotiated by **BSP**
- c. **To the extent relevant to the CLIENT's CA and not provided by the CLIENT to BSP, BSP shall furnish to the CLIENT, at their request, any of the records, data and information procured or by BSP in connection with the CLIENT's CA.**
- d. **To the extent relevant to the CLIENT's CA and not provided by the CLIENT to BSP, BSP shall ensure that at any time during normal business hours and as often as the CLIENT may deem necessary, there shall be made available to the CLIENT for examination, all its records with respect to the CLIENT's CA.**
- e. **BSP utilizes a proprietary valuation method to determine the rental amounts that it recommends to the CLIENT to seek from a Tenant under proposed new or renewal CAs. Notwithstanding any other provisions of this Agreement, CLIENT shall have no right of access under this Agreement to the specific factors considered, or weighting applied by BSP in determining the rental amounts. The process of determining such rental amounts is based on years of analysis and experience of BSP and will not be disclosed to CLIENT under any circumstances. The CLIENT may accept or reject BSP's recommended rents when the CLIENT approves the draft CA as part of BSP's negotiation process as referenced in Section 3.**

- f. BSP shall provide a detailed calculation of the BSP Fee associated with any executed CA, showing the Baseline Rent and Increased Revenue that provide the basis for such fee computation.
- g. All records provided to **BSP** by the **CLIENT** shall remain property of the **CLIENT** and shall be returned to the **CLIENT** upon the termination of this Agreement or upon request. Records procured by BSP that do not relate to **CLIENT**'s specific CA may be provided to **CLIENT** in **BSP**'s sole discretion, but **CLIENT** shall not be otherwise entitled to such data or information

10. **BSP REPRESENTATION AND WARRANTIES.**

BSP represents and warrants that:

- a. **BSP** and all personnel to be provided by it hereunder has sufficient training and experience to perform the duties set forth herein and are in good standing with all applicable licensing requirements.
- b. **BSP** and all personnel provided by it hereunder shall perform their respective duties in a professional and diligent manner in the best interests of the **CLIENT** and in accordance with the then current generally accepted standards of the profession for the provisions of services of this type.
- c. **BSP** has complied or will comply with all legal requirements applicable to it with respect to this Agreement. **BSP** will observe all applicable laws, regulations, ordinances and orders of the United States, State of New York and agencies and political subdivisions thereof.
- d. The execution and delivery of this Agreement and the consummation of the transactions herein contemplated do not and will not conflict with, or constitute a breach of or a default under, any agreement to which the **BSP** is a party or by which it is bound, or result in the creation or imposition of any lien, charge, or encumbrance of any nature upon any of the property or assets of the **BSP** contrary to the terms of any instrument or agreement.
- e. There is no litigation pending or to the best of the **BSP**'s knowledge threatened against **BSP** affecting its ability to carry out the terms of this Agreement or to carry out the terms and conditions of any other matter materially affecting the ability of the **BSP** to perform its obligations hereunder.
- f. **BSP** will not, without the prior written consent of the **CLIENT**, enter into any agreement or other commitment the performance of which would constitute a breach of any of the terms, conditions, provisions, representations, warranties and/or covenants contained in this Agreement.
- g. **BSP** employees are Independent Contractors to **BSP** and are not employees of the **CLIENTs** for purposes of any tax withholding requirements.

11. **OTHER BSP CLIENTS:** **BSP** believes that each location is unique and that no conflicts of interest currently exist or will arise in the future. However, it is possible that **BSP** could be engaged to represent a property owner other than **CLIENT** in the same geographic area of a location owned or managed by **CLIENT**. If that were to occur, **BSP** will notify **CLIENT** of that potential conflict and request the **CLIENT** to consent to **BSP**'s representation of such other property owner unless:

- a. the location for the other property owner is greater than 2 miles from a location owned or managed by **CLIENT** where **BSP** is negotiating a CA on such **CLIENT** location; OR

- b. the location for the other property owner is within 2 miles from a location owned or managed by **CLIENT**, but the representation agreement between **BSP** and such other property owner is executed after **CLIENT's** CA for **CLIENT's** location has been executed, and provided further that the CA for such other property owner is not scheduled to expire within 12 months of a future lease expiration on a location owned or managed by **CLIENT**.

BSP and **CLIENT** agree that situations covered by subparagraphs (a) and (b) within this section 11 are deemed not to present a conflict of interest.

BSP also agrees that it will not accept representation of another property owner within 2 miles of any of the locations owned or managed by **CLIENT**, without consent of **CLIENT**, until any negotiation of **CLIENT'S** CAs which are then ongoing for renewal or modification has been concluded as evidenced by a new CA or modification of an existing CA.

12. **AUTHORITY:** **CLIENT** represents to **BSP** that it has the authority to enter and sign this Agreement. The individuals signing this Agreement represent that they are authorized signatories of **CLIENT**.
13. **PROFESSIONAL ADVICE:** **BSP** recommends that **CLIENT** obtain legal, tax, or other professional advice relating to this Agreement and the CAs that may result from services rendered pursuant to this Agreement.
14. **SURVIVAL:** This Agreement is binding upon the parties hereto and their respective successors and assigns.
15. **MISCELLANEOUS:** Unless the context clearly indicates the contrary, words in this Agreement used in this singular number shall include the plural number and words in this Agreement used in the plural number shall indicate the singular number. This Agreement shall be governed by the laws of the State of New York, without giving effect to said State's principles of conflicts of law.
16. **ENTIRE AGREEMENT:** This Agreement including Exhibit A constitutes the entire Agreement between **CLIENT** and **BSP** and supersedes all prior discussions. No modification of this Agreement will be effective unless made in writing and signed by both **CLIENT** and **BSP**. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the respective parties thereto.



MUNICIPAL CELL TOWER LEASE EXPERTS

17. **NOTICES:** Notices to **CLIENT** and **BSP** shall be delivered to the addresses noted below.

Bench Strength Partners, Inc.
26 First Street
P. O. Box 8581
Pelham, NY 10803

CLIENT ADDRESS.

City of Glen Cove
Attention City Attorney
9 Glen Street
Glen Cove, NY 11542

BENCH STRENGTH PARTNERS, INC.

CITY OF GLEN COVE, NY

BY: Francis P. Clerkin

BY: _____

Name: Francis P. Clerkin

Name: _____

Title: Partner

Title: _____

Date: 10/23/2023

Date: _____



MUNICIPAL CELL TOWER LEASE EXPERTS

**EXCLUSIVE REPRESENTATION AGREEMENT
FOR LEASE OF OR LICENSE TO USE MUNICIPAL PROPERTY**

EXHIBIT A – FEE SCHEDULE

This Exhibit A to the Agreement between **CLIENT** and “**BSP** describes the conditions upon which a fee will be earned by **BSP** and the terms concerning the timing of payment of such fee.

1. **FEE SCHEDULE:** **BSP** shall earn a fee for providing the services described in the Agreement, but only if such services result in an executed CA between **CLIENT** and a carrier or other user of **CLIENT** property (“Tenant”). Fees are earned only on the Increased Revenues from said CA to be paid to **CLIENT** by Tenant: (a) over the Term of the new CA or (b) the term of the CA amendment or (c) the remaining term of an existing CA, the financial terms of which have been modified, or (d) on the value or increased value of any provisions including holdover terms, as the case may be. The Term of the new CA or the CA amendment is the initial fixed term as defined in the CA or the CA amendment. Renewal options or extensions of the new CA are discussed in paragraph 2 below. The “Increased Revenue” is defined as the total rent or any fee scheduled to be paid over the Term of the new CA or amended CA plus any additional monetary enhancements discussed in paragraph 6 below, minus the Baseline Rent, defined as the product of (i) the annual rental (or license fee) in effect at the conclusion of the existing CA or the amount of such annual rent scheduled to be paid in the current year in the case of an amendment and (ii) the term, in years, of the new CA, or the remaining years of an amended CA. The Fee Percentages applied to the Increased Revenue shall be those on the schedule below. The Fee Percentages within each range of Increased Revenue shall be applicable only to the Increased Revenue within that range of percentage increases.

Increased Revenue		BSP Fee
From	Up To	Percentage
0%	20%	0%
20.01%	30%	15%
30.01%	40%	20%
40.01%	50%	25%
50.01%	or above	30%

For example, if a new CA was executed and the Increased Revenue was 20% more than the Baseline Rent, no fee would be earned. If the Increased Revenue were 35% more than the Baseline Rent, the fee earned by **BSP** would be the sum of (i) the **BSP** Fee Percentage (20%) applied to the Increased Revenue between 30% and 40%, plus (ii) the **BSP** Fee Percentage (15%) applied to the Increased Revenue between 20% and 30%.

2. **RENEWAL OPTIONS:** If the new CA contains options to renew for additional terms, **BSP** shall earn a fee for such renewal terms and such fee will be computed in accordance with paragraph 1 above, as if the renewal term was a part of the original fixed term. However,

such fee shall only be earned upon exercise of such renewal, and will be payable to **BSP** according to the payment provisions in paragraph 8. **CLIENT** agrees to notify **BSP** of any decision by a Tenant to exercise a renewal option.

3. **REPLACEMENT TENANTS:** In the event that **BSP** negotiates a CA with a new Tenant and such Tenant replaces the space leased by an existing Tenant that elects not to renew their CA, **BSP** shall earn a fee on the CA with the Replacement Tenant on the same terms as described in paragraph 1 above, and in such event the Baseline Revenue shall be based on the revenue of the Tenant that is being replaced by the new Tenant.
4. **ADDITIONAL TENANTS:** (a) In the event that **BSP** negotiates an CA with a Tenant not currently leasing space on a particular **CLIENT** property or is on the **CLIENT** property but not currently paying any rents and such Tenant is in addition to and not in replacement of an existing Tenant, **BSP** shall earn a fee for negotiating such CA based on the same terms as described in paragraph 1, and in such event the Baseline Rents shall be based on the average of the annual revenues ("Average Annual Revenue") then in effect for all other similar CAs at the subject location for the year immediately preceding the commencement of the CA for the new tenant. Similar CAs being defined as either small cell site installations or macro locations which would include a base equipment station. Any CAs then in effect that have been amended, or entered into as a result of the services provided by **BSP** pursuant to this Agreement, shall be ignored and the annual revenues of CAs in effect at the specific location prior to CAs resulting from services provided by **BSP** shall be used in calculating such Average Annual Revenue. (b) In the event **BSP** is asked by **CLIENT** to negotiate a new CA with a Tenant at a location now owned or managed by **CLIENT** but which does not have any similar CAs at the subject location, as of the Effective Date, **BSP** shall earn a fee for negotiating such CA based on the same terms as described in paragraph 1, and in such event the Baseline Revenue shall be based on the average of the annual revenues ("Average Annual Revenue") then in effect for all other similar CAs, which are producing revenues at any of the other locations owned or managed by **CLIENT** as of the Effective Date for the year immediately preceding calendar year prior to the commencement of the CA for the new tenant except that any CAs then in effect that have been amended, or entered into as a result of the services provided by **BSP** pursuant to this Agreement shall be ignored and the annual revenue of CAs in effect at the specific location prior to CAs resulting from services provided by **BSP** shall be used in calculating such Average Annual Revenue. (c) In the event **CLIENT** does not currently have any similar CAs nor has **CLIENT** had any CAs in the previous 3 years then the Baseline Revenue shall be based upon the average of CAs in the **BSP** database within a 5 mile radius of the site of the new CA. The radius of the new site will be increased in 5 mile radius increments until at least a total of 6 CAs are obtained. Any CAs then in effect that have been amended or entered into as a result of the services provided by **BSP** shall be excluded from this average computation. If the **BSP** database contains no CA as the radius is expanded up to 25 miles then **BSP** will proceed to obtain such CAs from municipalities within such area and upon obtaining a total of 6 CAs, **BSP** will use those CAs average as the Baseline Revenue.

5. **CANCELLATION CLAUSES:** In the event that **CLIENT** has the right to cancel a CA at a time subsequent to the execution of the CA, **BSP** shall be paid a fee for the entire CA term (excluding renewal options) as though such right to cancel did not exist.
6. **ENHANCED REVENUE:** In calculating the fees pursuant to paragraph 1 above, the Increased Revenue shall include all incremental revenue and expense reimbursements to which **CLIENT** is entitled that either stems from CA provisions that were not present in the existing CA, or relate to Increased Revenue and expense reimbursements terms for CA provisions that were present in the existing CA. Increased Revenue shall also include the value of any assets, the title to which is transferred to **CLIENT** as a result of the terms negotiated by **BSP**. The value of such assets shall be based on replacement cost for such asset at the time of the transfer, less depreciation based on the age of such asset using a straight line method of depreciation and a 40 year useful life. ("Replacement Cost New, Less Depreciation" method or "RCNLD").
7. **LEASE AUDIT FEE:** In the case that **BSP's** review of the CA terms and the payment history under such CA terms determines that there are unpaid or underpaid rents or fees due to the **CLIENT**, which have not been paid in the previous 3 months **BSP** shall be entitled to 25% of all such unpaid or underpaid rents, including any interest due thereon, which **BSP** collects on behalf of the **CLIENT**. The payment for such collections will not be considered as Increased Revenue, as defined in section 1 of this agreement and the 25% fee will be paid within 30 days of the receipt of the past due payments to the **CLIENT**.
8. **TIME OF PAYMENT:** Fees earned by **BSP** pursuant to this Agreement shall be earned upon execution of the CA or CA amendment, or upon exercise of any renewal options. In the case of a new CA, CA amendment or CA renewal, **CLIENT** shall pay **BSP** its fee by allocating seventy five percent (75%) of the Increased Revenues scheduled to be received by **CLIENT** under the CA until the fee computed pursuant to paragraph 1 has been fully paid. The first such payment shall be made within 30 days of the receipt of the amounts paid pursuant to the terms of the new CA or CA amendment. Additional payments shall be made to **BSP** within 30 days of receipt of any of the Increased Revenues until the total fee earned by **BSP** has been paid. In the case of a renewal option, such fee shall be paid in the same manner as a new CA or CA renewal described above. Any payment made past the due date will bear interest from the date due to the date of actual payment at ten percent (10%) per annum.
9. **ACCELERATION:** In the event that **CLIENT** enters into a transaction to assign the CA or the cash flows stemming from the CA to a third party, any remaining fee then due to **BSP** shall be accelerated and paid in full as of the effective date of any such assignment. If such payments include renewal periods, which have not yet been exercised, but which are included in the transaction for the sale of such rights, then the **BSP** fee due for such renewal will also be due as of the effective date of any such assignment.

6C

**ASSIGNMENT AND ASSUMPTION OF
COOPERATION AGREEMENT**

ASSIGNMENT AND ASSUMPTION OF COOPERATION AGREEMENT made this _____ day of October 2023 by and between Glen Cove Housing Authority ("PHA/ASSIGNOR"), a municipal housing authority organized and existing under the laws of the State of New York, having its offices at 140 Glen Cove Avenue, Glen Cove, New York 11542, the City of Glen Cove, a municipal corporation having its offices at 9 Glen Street, Glen Cove, New York 11542 (the "CITY") and Glen Cove Gardens Development LLC, a New York limited liability company, with offices at 140 Glen Cove Avenue, Glen Cove, New York 11542 ("GCG/ASSIGNEE"). The PHA/ASSIGNOR, GCG/ASSIGNEE and the CITY are sometimes referred to collectively as the "Parties."

WITNESSETH:

WHEREAS, the PHA/ASSIGNOR owns certain real property in the City of Glen Cove, County of Nassau located at 1-48 Kennedy Heights, 140 Glen Cove Avenue, 1-8 Mason Drive and 6, 8, 10, 12 and 14 Butler Street in Glen Cove, NY 11542 identified on the City of Glen Cove Assessment Roll and the Nassau County Tax Map as Section 21, Block 256, Lot 62; Section 21, Block 256, Lot 100; and Section 23, Block 12, Lot 12, together and collectively the "Project Site"; and

WHEREAS, pursuant to Sections 3 and 52 of the New York State Public Housing Law ("PHL"), the Project Site, as property of the PHA/ASSIGNOR, is a federal project and exempt from any and all local and municipal taxes as a matter of law; and

WHEREAS, the CITY and the PHA/ASSIGNOR have recognized the need to rehabilitate the existing affordable housing on the Project Site; and

WHEREAS, pursuant to the Rental Assistance Demonstration program ("RAD") as promulgated by the United States Department of Housing and Urban Development ("HUD"), specifically the RAD Section 18 Small PHA Blend for any PHA with 250 or fewer public housing units, the PHA/ASSIGNOR intends to convert its existing housing portfolio located on the Project Site from HUD Section 9 public housing to HUD Section 8 housing (the "Project Facility", and together with the Project Site and all buildings, structures, and all ancillary and additional improvements located thereon, hereinafter collectively referred to as the "Project"); and

WHEREAS, the PHA/ASSIGNOR and the CITY entered into a certain Cooperation Agreement ("Agreement") dated August 31, 2022; and

WHEREAS, Paragraph 14 of the Agreement provides as follows:

"14. This Cooperation Agreement may not be assigned by either Party, except the PHA shall have the right to assign it to a subsequent Lessee(s) or Owner(s) of the Project, which is/are exempt from any and all local and municipal taxes under State or

Federal Law and provided the Project continues to be utilized as public and affordable housing facilities for persons of low income.”; and

WHEREAS, pursuant to the RAD, the PHA/ASSIGNOR as Landlord will enter into a certain Ground Lease (“Lease”) with GCG/ASSIGNEE as Tenant; and

WHEREAS, the PHA/ASSIGNOR desires to assign the Agreement to GCG/ASSIGNEE pursuant to the terms of Paragraph 14 thereof; and

WHEREAS, GCG/ASSIGNEE is willing to assume responsibility as Assignee under the Agreement and Tenant under the Lease and the City is willing to consent to such assignment; and

NOW, THEREFORE, for and in consideration of Ten (\$10.00) Dollars and the covenants and mutual promises herein contained, and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties hereto agree as follows:

1. PHA/ASSIGNOR assigns to GCG/ASSIGNEE, its successors and assigns, all of its right, title and interest in and to the Agreement.
2. GCG/ASSIGNEE hereby assumes full responsibility for such Agreement and agrees to perform, observe and be subject to all the terms, covenants and conditions of said Agreement as of the date hereof.
3. CITY consents to the assignment, provided the Project continues to be utilized as residential affordable housing facilities for persons of low income.
4. The Parties ratify and confirm that all of the provisions of the Agreement remain in full force and effect.
5. This Agreement may be executed in one or more counterparts, each of which counterpart shall be an original.
6. A facsimile copy or copies of this Agreement showing the signature of all Parties hereto shall have the same force and effect as an original signed Agreement.

(signature page follows)

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

On the day of _____ October in the year 2023, before me, the undersigned, personally appeared PAMELA PANZENBECK, Mayor of the City of Glen Cove, a New York municipal corporation, personally known to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

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

On the day of _____ October in the year 2023, before me, the undersigned, personally appeared ERIC WINGATE, the Executive Director of the Glen Cove Housing Authority, a New York municipal housing authority and the sole Member of Glen Cove Gardens Development LLC, personally known to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

6 D

**AGREEMENT BETWEEN
THE COUNTY OF NASSAU, NEW YORK,
AND
THE CITY OF GLEN COVE, NEW YORK,
IN RELATION TO THE PROSECUTION AND ADJUDICATION BY
THE NASSAU COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY OF
TRAFFIC INFRACTIONS ISSUED BY THE
CITY OF GLEN COVE'S SCHOOL BUS STOP ARM SAFETY PROGRAM**

THIS AGREEMENT made and entered as of the date on which this Agreement is last executed by the parties hereto, and approved by the legislature, by and between the COUNTY OF NASSAU, a municipal corporation of the State of New York having its principal offices at One West Street, Mineola, New York 11501 (the "County"), and the CITY OF GLEN COVE (the "CITY"), a municipal corporation of the State of New York, having its principal office at 9 Glen Street, Glen Cove, N.Y. 11542 (collectively, "the Parties" and individually, each "Party");

WITNESSETH:

WHEREAS, §1174-a of the New York Vehicle and Traffic Law (VTL) authorizes CITYs 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 VTL §1174 when meeting a school bus, and further empowers such CITY to install and operate school bus photo violation monitoring systems on school buses owned and operated by or for school districts within the CITY; and

WHEREAS, the CITY established such program by enactment of Local Law 4-2022 Chapter 265, Article II, Sections 265.9 et seq. of the Code of the CITY OF GLEN COVE, entitled "School Bus Stop Arm Demonstration Program;" and

WHEREAS, VTL § 1174-a and CITY Code Chapter 265.9 requires that a Notice of Liability shall be sent by the CITY or its authorized agent to persons alleged liable as owners for a violation of Subdivision (a) of § 1174 of the New York Vehicle and Traffic Law, and that liability, when contested, be adjudicated by the Nassau County Traffic and Parking Violations Agency ("TPVA"), a department of the County of Nassau; and

WHEREAS, the Parties desire that TPVA provide certain services, as further set forth herein, relative to such adjudication of liability, and that the County be reasonably compensated therefor:

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties do understand and agree as follows:

DEFINITIONS

“Nassau County”: (the “County”) Shall include the Municipal Corporation of the State of New York and all its officials, agents, officers, employees, volunteers, contractors, vendors, representatives, subdivisions, and departments.

“CITY of GLEN COVE”: (the “CITY”) Shall include the Municipal Corporation of the State of New York and all its officials, agents, officers, employees, volunteers, contractors, vendors, representatives, subdivisions, and departments.

“Nassau County Traffic and Parking Violations Agency”: (TPVA) shall mean a department of the County of Nassau established under §370 of the New York General Municipal Law and operated under the direction and control of the Nassau County Executive.

“School Bus Stop Arm Safety Program”: A demonstration program enabled by §1174-a of the New York Vehicle and Traffic Law and established by the CITY OF GLEN COVE pursuant thereto by enactment of Local Law 4-2022 Chapter 265, Article II, Sections 265.9 et seq. of the Code of the CITY OF GLEN COVE, entitled “School Bus Stop Arm Demonstration Program” (the “Program”).

“Vehicle Owner”: Shall have the same meaning provided in §239 of the New York State Vehicle and Traffic Law.

“Notice of Liability”: The notice issued by the CITY to each vehicle owner alleged to have monetary liability under the program for a failure of a vehicle operator to comply with VTL § 1174, and which, among other things, details the alleged violation and informs the Vehicle Owner of the manner and time in which liability may be contested.

TERMS

1. Compensation to County for Prosecution and Adjudication Services. The compensation paid by the CITY to the County for the Adjudication and Prosecution of Notices of Liability under the CITY’s School Bus Stop Arm Safety Program shall be scheduled as follows:

- (a) the County shall receive EIGHTEEN (\$18.00) DOLLARS, paid by the CITY for each Notice of Liability issued by the CITY to a Vehicle Owner, payable upon the subject Vehicle Owner being issued a Notice of Liability; and
- (b) the County shall receive an additional EIGHTEEN (\$18.00) DOLLARS, paid by the CITY for every Notice of Liability for which a hearing is requested by the Vehicle Owner; and
- (c) on or before February 1, 2024, the CITY shall remit payment to the County based upon

the number of Notices of Liability issued from the beginning of the Program, not to include the initial warning period ending December 20, 2023, ~~through and including December 21, 2023~~, accompanied by a report and statement of the CITY setting forth the number of Notices of Liability issued during such period; and

- (d) the CITY shall thereafter remit the payments set forth herein to the County on a monthly basis. By way of example: The first payment period of the agreement will be considered December 21 through January 30 and shall be paid no later than March 15; Thereafter: February 1 through February 29 shall be paid no later than April 15; March 1 through March 31 shall be paid no later than May 15; April 1 through April 30 shall be paid no later than June 15.
- (e) Such monthly payment shall be remitted by the CITY no later than the Fifteenth (15) day of the following month which shall be extended an extra fifteen days at the CITY's reasonable request and written notice to the County, and be accompanied by a report from the CITY of the total number of Notices of Liability issued the previous month, and the total number of Notices of Liability for which a hearing was requested.

The total compensation paid by the CITY to the County for Prosecution and Adjudication services shall not exceed THIRTY-SIX (\$36.00) DOLLARS ("Total Amount") per Notice of Liability prosecuted and adjudicated by the County. The Parties agree that such fees are to offset the administrative costs and expenses expended by the County to perform such services.

2. **Term.** This Agreement shall commence on the date on which this Agreement is last executed by the Parties and approved by the Parties respective legislative bodies and shall terminate on December 31, 2028 or until the expiration or repeal of Section 1174-a, which is currently scheduled to expire on December 1, 2024, or unless sooner terminated in accordance with the provisions of this Agreement.

3. **Duties of the County and TPVA:** The TPVA will be responsible solely for the Prosecution and Adjudication of the Notices of Liability issued by the CITY's Program. The County and TPVA shall approve the content and format of all program notices and other documents relating to the calendaring and adjudication of liability to the CITY, all of which will be produced and mailed by the CITY.

- (a) **Scheduling Hearing Dates:** The TPVA shall be responsible for providing dates and times to the CITY for the scheduling of hearings on Notices of Liability where liability has been denied by the Vehicle Owner. Such dates and times shall be determined at the sole discretion of the TPVA. Nothing herein shall be interpreted to assign to TPVA or the County the responsibility of sending any notices of such hearings or of the rescheduling thereof.
- (b) **Prosecution:** Prosecution shall be carried out by a TPVA Prosecutor. Prosecution of

a case by a TPVA Prosecutor will occur only on a matter which is scheduled for a hearing. The Prosecutor shall have full, complete, and final prosecutorial authority and discretion with respect to all matters scheduled for a hearing. Prosecutor will use best efforts to work with the CITY upon a request by the CITY for information about the matter and/or the CITY providing information to the Prosecutor about the matter scheduled for hearing. The TPVA Prosecutor's responsibility shall only extend to that actual representation at a hearing, including the preliminary negotiations and/or plea offers, oral arguments, presentation of evidence, and disposition. The Prosecutor will also request that the presiding hearing officer, in his or her discretion, direct the issuance of a judgement in favor of the CITY against a Vehicle Owner who defaults in appearing at a scheduled hearing. Nothing herein shall be interpreted to extend the meaning of Prosecution to include any action or forbearance of action prior to the immediate time and date when the calendared Notice of Liability hearing is to occur, or after a decision by a TPVA Judicial Hearing Officer has been issued.

- (c) **Adjudication:** All hearings on Notices of Liability may be conducted either in person or virtually, at the discretion of TPVA. TPVA shall provide personnel, consisting of Judicial Hearing Officer(s), prosecutors, clerk(s), and court stenographer(s), to calendar and conduct a hearing on the Notices of Liability. TPVA's and the County's responsibility shall only extend to that actual calendaring/scheduling of the hearing, clerical duties immediately prior, during and immediately after the hearing, keeping a stenographical record of the hearing, presiding over the hearing, issuance of a decision on any motions, and issuance of a decision on the Notice of Liability. Nothing herein shall be interpreted to extend the meaning of Adjudication to include any action or forbearance of action prior to the immediate time and date when the calendared Notice of Liability hearing is to occur, or after a decision by a TPVA Judicial Hearing Officer has been issued, including mailing of notices (i.e., Notices of Liability, Hearing Notices, Notices of Determination, etc.).
- (d) **Exclusions:** The County and TPVA shall not be responsible for collecting any fine, fee, penalty, or liability due, or alleged to be due or owing under the Program. The TPVA will direct anyone who wishes to make payment to do so in a manner and/or place determined by the CITY. The County and TPVA shall not be responsible for sending, receiving, or responding to any mail, phone calls, electronic correspondence, or any other form of communication with, to, or from the Vehicle Owners. Nor will the County or TPVA be responsible for expenses related to sending or receiving any mail, phone calls, electronic correspondence, or any other form of communication with the Vehicle Owners. When a Vehicle Owner fails to appear for a scheduled hearing, the County and TPVA shall have no responsibility relative to judgments by default beyond the requesting of the prosecutor for the issuance thereof, and the responding by the hearing officer to such request. The TPVA shall not be responsible for the collection or receipt of any fine payment. The County and TPVA will not provide or permit the use of or access to any County equipment, including cash drawers, registers,

computers, software, printers, or networks. The exclusion of networks does not include use of TPVA's internet by the CITY as specified in Section 5 (b) of this Agreement.

- (e) **Venue and Jurisdiction:** The County and TPVA will only adjudicate or provide prosecution services for violations occurring within the jurisdictional boundaries of the CITY. Any violation occurring within the jurisdictional boundaries of any incorporated village, city, or any other municipality shall not be adjudicated by the County or TPVA, unless the CITY has entered into an intermunicipal agreement with said incorporated village, city, or municipality. Such intermunicipal agreement shall include an indemnification clause that names the County as an indemnified party, and is approved by the County Attorney's Office.

4. **Duties of the CITY:** The CITY shall administer the Program in compliance with Federal, State and Local Law. The CITY shall be responsible for all actions or forbearance of actions in administering the Program including, but not limited to, making and receiving phone calls from Vehicle Owners, mailing of all notices (i.e., Notices of Liability, hearing notices and rescheduling notices, and Notices of Determination) and the expenses associated therewith, collection of fines and fees associated with the disposition of the hearings, and for all other duties associated or related to the Program that are not explicitly assumed by the County or TPVA.

- (a) **Prehearing Responsibilities:** The CITY shall be responsible for all notices sent to schedule or reschedule a hearing on a Notice of Liability where the Vehicle Owner has denied liability and requested a hearing. At least ten (10) days prior to any scheduled hearing the CITY, at their own expense, shall produce a hard color copy of the evidence package for each matter. The package shall include sworn and notarized certificates of facts from the CITY's employee or agent that is based upon that employee or agent's inspection and observations of photographs, microphotographs, videotape or other recorded images that were produced by the School Bus Photo Violation Monitoring System.
- (b) **Notices:** All notices for the Program shall be issued, produced, and/or delivered by the CITY. Notices shall be defined as all notices including but not limited to Notices of Liability, Scheduling Notices, Rescheduling Notices, and Notices of Determination, demands for payment, etc. The CITY shall issue, produce, and mail all Notices at their own expense. All notices produced and issued by the CITY shall comply with Federal, State, and Local Law.
- (c) **Hearing Responsibilities:** The CITY shall produce at the hearing of any Notice of Liability such witness(es), document(s), or other proof as deemed necessary by a TPVA prosecutor to establish liability under the program. The Prosecutor shall request one postponement of the hearing if the witness is not available and TPVA is notified at least thirty (30) minutes prior to the hearing. The granting or denial of any postponement or rescheduling requests shall be at the sole discretion of the presiding

hearing officer.

- (d) **Motions:** The CITY shall be responsible for intake, preparation, serving, and filing of all opposition papers or cross-motions to all motion papers filed by the Vehicle Owner or their Attorney. All opposition papers or cross-motion papers with affidavits of service shall be submitted to the TPVA at least ten (10) days prior with the evidence package.
- (e) **Communication:** All communication from the Vehicle Owner or their attorney related to the Program, and payment of fines, fees, penalties, etc., shall be received and addressed by the CITY. The CITY shall make arrangements to receive all telephone communications from Vehicle Owners.
- (f) **Training:** The CITY will train TPVA Prosecutors and Courtroom Clerks concerning the use, displaying, viewing, presentation, introduction, significance, and interpretation of photographic and video images, and of all other documents and things contained in the evidence package. The CITY will also train courtroom clerks regarding the use of software or other systems that are used and required to record and report the outcome of a scheduled hearing to the CITY.
- (g) **Reports:** The CITY shall provide the County and TPVA monthly reports detailing the number of Notices of Liability issued, and the number of Vehicle Owners requesting a hearing for the previous month. The report shall also detail the total number of outstanding Notices of Liability that have not yet received a response and are not yet over due. The CITY shall provide the report to the County and TPVA no later than the Fifteenth (15) day of the month, which shall be extended an extra fifteen days at the CITY's reasonable request and written notice to the County. Additionally, all payments remitted to the County shall be accompanied by a report from the CITY of the total number of Notices of Liability issued the previous month, and the total number of Notices of Liability for which a hearing was requested.

5. **Collection of Fines:** In addition to the aforementioned duties, both Parties agree:

- (a) **Payment of Fines:** Only the CITY will be responsible for the collection and receipt of payment of fines under the Program. The County will not accept any form of payment for said fines. No County or TPVA employees, agents, or subcontractors will be responsible for the collection or receipt of fine payments. The Parties will allow payment of fines due under the subject Notice of Liability up to and including the commencement of the hearing.
- (b) **Cashier Payment Window:** The TPVA shall provide the CITY with a cashier payment window designated and chosen by the TPVA to allow the CITY to collect payment of the subject fine on only dates and times that TPVA conducts in-person

hearings on the Notices of Liability. On the cashier payment window conspicuous signage shall read "Only payments of fines and penalties for the City of Glen Cove's TOH's School Bus Stop-Arm Safety Program are accepted here". Only the CITY shall staff and collect payments of fines issued at said cashier window. The County and TPVA will not provide or permit the use of or access to any equipment, including cash drawers, registers, computers, software, printers, or networks. The CITY will be permitted a single person at the designated window to accept such payments and the CITY will provide their own equipment required to do so, and/or to determine, confirm or calculate the fines and penalties, and to accept, receipt or otherwise acknowledge, record or communicate payment thereof. TPVA will allow the CITY to utilize the County's internet connection on the date and times that hearings are scheduled for the purpose of processing payments.

- (c) **Times and Dates of Cashier Window Operation:** The cashier window shall only be staffed on the dates and times that TPVA conducts in-person hearings on the Notices of Liability.
- (d) **Personnel Staffing Cashier Window:** The CITY shall provide only one person at any given time to staff the cashier payment window designated by TPVA for the collection and payment of fines and penalties. At least ten (10) days prior to any date designated for hearings on Notices of Liability, the CITY shall provide the name of the individual assigned to staff the cashier window at TPVA, and the CITY shall provide TPVA with a certified criminal background check of that individual. Any and all CITY employees, agents, or subcontractors that are designated to staff the cashier window may be subject to further fingerprinting and background checks conducted by the County. The County and TPVA shall have final and absolute discretion as to whether such individual will be permitted on their premises. It is agreed that such CITY staff will at all times act solely on behalf of the CITY in the collection of payments under the CITY's program. It is further agreed that the person staffing the designated cashier window is not an agent or employee of the County or TPVA, and that they will not so represent themselves.

6. Indemnification; Defense; Cooperation:

- (a) The CITY, shall be responsible for and shall indemnify and hold harmless the County, TPVA and its officers, employees, agents, volunteers and representatives (the "Indemnified Parties") from and against any and all liabilities, losses, costs, expenses (including, without limitation, attorneys' fees and disbursements) and damages ("Losses"), arising out of or in connection with any acts or omissions of the CITY, or the validity or enforcement of the Program, including, but not limited to, U.S. or New York State constitutional claims, and appeals, regardless of whether due to negligence, fault, or default, including Losses in connection with any threatened investigation, litigation or other proceeding or preparing a defense to or prosecuting the same.

- (b) The CITY, shall, at the County's demand and at the County's direction, promptly and diligently defend, at the CITY's, own risk and expense, any and all suits, actions, or legal proceedings which may be brought or instituted against one or more Indemnified Parties, for any acts or omissions of the City ~~on any such claim, demand or cause of action~~ in connection with this Agreement, and CITY shall pay and satisfy any judgment or decree which may be rendered against the indemnified Parties in any ~~suit~~ suit, action or other legal proceeding; and CITY shall pay for any and all damages to the property of the Indemnified Parties, for loss or theft of such property, done or caused by the CITY.
- (c) The CITY shall, and shall cause all of CITY's Agent(s) to cooperate with the County and TPVA in connection with the investigation, defense or prosecution of any action, suit or proceeding in connection with this Agreement, including the acts or omissions of the CITY and/or the CITY's Agent(s) in connection with this Agreement.
- (d) To the extent permitted by law, County agrees to indemnify, hold harmless, and defend CITY from and against any and all losses, claims, liabilities, and expenses, if any, which CITY may suffer or incur from any acts or omissions of the County. ~~in connection with use or misuse of the County premises, except CITY's own acts or negligence.~~ County further agrees to indemnify, hold harmless, and defend CITY from and against any and all losses, claims, liabilities, and expenses, if any, which CITY may suffer or incur as a result of any ~~gross or intentional~~ negligence of the County.
- (e) **Intellectual Property Indemnity:** Upon notification of a claim against County alleging any contract deliverable infringes a copyright, patent or trade secret of any third party, CITY, will defend such claim at its expense and will pay any costs or damages that may be finally awarded against County for the City's infringement. If any deliverable is, or in CITY's opinion is likely to be, held to be infringing, CITY shall at its expense and option either: (a) procure the right for County to continue using it, (b) replace it with a non-infringing equivalent, (c) modify it to make it non-infringing, or (d) direct the return of the deliverable and refund to County the fees paid for such deliverable.
- (f) The provisions of this Section shall survive the termination of this Agreement.

7. Confidentiality.

- (a) **Obligations:** The Parties understand and agree that as part of the performance of their duties under this Agreement, they may have access to, see or hear confidential or proprietary information or data (all hereinafter referred to as "confidential information"). The Parties understand and agree that all such information or data (oral, visual, or written, including both paper and electronic) which they see or to which they have access may not be released, copied, or disclosed, in whole or in part, unless properly authorized by the other Party. The Parties understand and agree that access to

and the use of confidential information obtained in the performance of their duties shall be limited to purposes directly connected with such duties, unless otherwise provided in writing by the other Party. When access to such information or data also results in access to confidential information or data beyond that which is necessary for the purpose for which access was granted, they agree to access only that confidential information needed for the purpose for which access was given.

(b) Exceptions Allowing Parties to Disclose Certain Confidential Information:

- i. The confidentiality obligations in this Section do not apply to the extent that the Party receiving the Confidential Information can demonstrate or establish by that: (1) the Confidential Information became part of the public domain other than through the actions or fault on the part of Recipient; (2) the Confidential Information was lawfully obtained by Recipient from a source other than the Disclosing Party free of any obligation to keep it confidential; (3) Recipient developed such information independently of and without reference to any Confidential Information of the Disclosing Party; (4) the Disclosing Party expressly authorized disclosure of the Confidential Information; or (5) the Confidential Information is required to be disclosed pursuant to law, regulation, judicial or administrative order, or request by a governmental or other entity authorized by law to make such request.
- ii. Disclosure if Legally Compelled: Notwithstanding anything herein, in the event that a Party receives notice that it has, will, or may become compelled, pursuant to applicable law, regulation, or legal process to disclose any Confidential Information (whether by receipt of oral questions, interrogatories, requests for Confidential Information or documents in legal proceedings, Freedom of Information Law ("FOIL") requests, subpoenas, civil investigative demands, other similar processes, or otherwise), that Party shall, except to the extent prohibited by law, attempt to notify the other Party, orally or in writing, of the pending or threatened compulsion.

8. No Third-Party Rights: Nothing in the agreement shall create or give to third parties any claim or right of action against the County or the CITY beyond such as may legally exist irrespective of this agreement.

9. All Legal Provisions Deemed Included; Severability; Supremacy; Construction.

- (a) Every provision required by law to be inserted into or referenced by this Agreement is intended to be a part of this Agreement. If any such provision is not inserted or referenced or is not inserted or referenced in correct form then (i) such provision shall be deemed inserted into or referenced by this Agreement for purposes of interpretation and (ii) upon the application of any Party to this Agreement shall be

formally amended to comply strictly with the law, without prejudice to the rights of any Party.

- (b) In the event that any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- (c) Unless the application of this subsection will cause a provision required by law to be excluded from this Agreement, in the event of an actual conflict between the terms and conditions set forth above the signature page to this Agreement and those contained in any schedule, exhibit, appendix, or attachment to this Agreement, the terms and conditions set forth above the signature page shall control. To the extent possible, all the terms of this Agreement should be read together as not conflicting.
- (d) Each Party has cooperated in the negotiation and preparation of this Agreement, so if any construction is made of the Agreement, it shall not be construed against any Party as drafter.

10. Entire Agreement. This Agreement represents the full and entire understanding and agreement between the Parties with regard to the subject matter hereof and supersedes all prior agreements (whether written or oral) of the Parties relating to the subject matter of this Agreement.

11. Successors and Assigns. The covenants and agreements herein contained shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and assigns.

12. Assignment; Amendment; Waiver; Subcontracting. This Agreement and the rights and obligations hereunder may not be in whole or part (i) assigned, transferred or disposed of, (ii) amended, (iii) waived, or (iv) subcontracted, without the prior written consent of the County Executive of Nassau County or his or her designee and the Mayor Supervisor of the CITY, or his or her designee; and any purported assignment, other disposal or modification without all such prior written consents shall be null and void. The failure of any Party to assert any of its rights under this Agreement, including the right to demand strict performance, shall not constitute a waiver of such rights.

13. Third Party Claims. Nothing in this Agreement shall create or give to third parties any claim or right of action against any Party beyond such as may legally exist irrespective of this Agreement.

14. Executory Clause. Notwithstanding any other provision of this Agreement, no Party shall have any liability under this Agreement (including any extension or other modification of this Agreement) to any Person unless (i) all approvals have been obtained, including, if required,

approval by the County Legislature and the CITY Board of the CITY, and (ii) this Agreement has been executed by the County Executive, or his or her designee, and the chief executive, or his or her designee, of the CITY.

15. Termination. This Agreement may be terminated:

- (a) by the County or CITY for any reason upon ninety (90) days written notice to the other Party;
- (b) upon mutual written agreement by the County and the CITY.

16. Counterpart Execution. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed an original Agreement for all purposes; provided that no Party shall be bound to this Agreement unless and until all Parties have executed a counterpart. Delivery of a copy of a counterpart by facsimile or email by one Party to the other Party shall be deemed to be delivery of an original by that Party.

17. No Employee/Employer Relationship. The CITY shall not, nor shall any officer, director, employee, servant, agent or independent contractor of the CITY (a "CITY Agent"), be (i) deemed a County employee, (ii) commit the County to any obligation, or (iii) hold itself, himself, or herself out as a County employee or Person with the authority to commit the County to any obligation.

18. Authority to Enter Into Agreement. Each signatory to this Agreement warrants his or her authority to enter into this Agreement. This agreement is subject and contingent upon by the approval of the Parties respective legislative bodies.

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COUNTY OF NASSAU

CITY OF GLEN COVE

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Corporate Offices:
BUFFALO - NEW YORK
2216 Kensington Avenue
Kensington Avenue
at Saratoga
Buffalo, NY 14226
(800) 499-8599
(716) 839-4402
Telefax (716) 839-4452

Branch Offices:

CALIFORNIA
398 E. Carob Ave.
Fresno, CA 93654

Post Office Box 550700
So. Lake Tahoe, CA 96155

FLORIDA
1713 Whitehall Drive
Davie, FL 33324

Post Office Box 14192
Ft. Lauderdale, FL 33302

2330 Warbler Circle
Lakeland, FL 33810

NEW YORK
Rockefeller Center
Post Office Box 3968
New York, NY 10185
(212) 699-0621

Post Office Box 147
Williston Park, NY 11596
(516) 746-0992

31 Hidden Valley Road
Rochester, NY 14624

TEXAS
6418 Eckhart Rd. #3101
San Antonio, TX 78240

VIRGINIA
325 East Bayview Blvd.
Suite #201
Norfolk, VA 23503
(757) 932-1414

e-mail:
save@troybanks.com

Internet address:
www.troybanks.com

Agreement

TIPS Contract Number 230601
Consulting and Other Related Services

This Agreement is entered into as of 11-16-23 between Troy & Banks, Inc. ("TB") and

_____ with an address at

(the "Client").

In consideration of the mutual agreements hereafter set forth, TB and Client agree as follows:

1. The Client engages TB to conduct a one-time audit of the Client's collection of the Gross Receipts Tax (GRT). T&B agrees to conduct such audit.
2. GRT Recovery – For any refunds, recoveries, credits or rebates identified and obtained by TB for collection of the Gross Receipts Tax, TB shall be paid 33% of GRT that is owed to the Client, TB shall be paid 33% of all monies refunded, credited or recovered for the Client.
3. TB has made and makes no guarantee or assurance of any credit, refund or recovery amount or cost saving results.
4. **If Client does not receive refunds, credits, or reductions in future billings, there will be no fee for TB services.**
5. This Agreement sets forth the entire understanding and agreement between the parties.

Troy & Banks, Inc.

By: Thomas T. Ranallo
Thomas T. Ranallo, President

By: _____

Name: _____

Title: _____

Telephone: _____

Telefax: _____



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AGREEMENT

TIPS Contract Number 230601
Consulting and Other Related Services

Corporate Offices:
BUFFALO - NEW YORK
2216 Kensington Avenue
Kensington Avenue
at Saratoga
Buffalo, NY 14226
(800) 499-8599
(716) 839-4402
Telefax (716) 839-4452

This Agreement is entered into as of 11-16-23 between Troy & Banks ("T&B") and

_____ with an address at

_____ (the "TIPS Member").

Branch Offices:

CALIFORNIA
398 E. Carob Ave.
Fresno, CA 93654

Post Office Box 550700
So. Lake Tahoe, CA 96155

FLORIDA
1713 Whitehall Drive
Suite 203
Davie, FL 33324
(954) 477-7073

Post Office Box 14192
Ft. Lauderdale, FL 33302

2330 Warbler Circle
Lakeland, FL 33810

HAWAII
Post Office Box 25
Papahou, HI 96781

NEW YORK
Rockefeller Center
Post Office Box 3968
New York, NY 10185
(212) 699-0621

Post Office Box 147
Williston Park, NY 11596
(516) 746-0992

31 Hidden Valley Road
Rochester, NY 14624

TEXAS
6418 Eckhart Rd. #3101
San Antonio, TX 78240

VIRGINIA
325 East Bayview Blvd.
Suite #201
Norfolk, VA 23503
(757) 932-1414

e-mail:
save@troybanks.com

Internet address:
www.troybanks.com

In consideration of the mutual agreements hereafter set forth, T&B and the TIPS Member agree as follows:

1. The TIPS Member engages T&B to conduct an audit for the purpose of verifying the accuracy of the cable franchise fee payments paid or due to the Member for taxes, or any other monies. T&B agrees to conduct such audit.
2. Audit – T&B shall examine relevant accounting data, examine franchisee/tax accounting data and supporting documentation, identify all revenue sources by classification, and verify calculations. T&B shall also evaluate allocation methodology with respect to non-subscriber revenue, conduct a search for unreported revenues and examine the cable operators' database to determine if all active addresses within the Member's boundaries were included in the franchise fee remittances.
3. Purpose – The purpose of each audit is to recover past taxes or any other monies or revenue owed to the Member that were not properly attributed to the Member or were not properly paid/collected and to determine future taxes and other monies owed to the Member not previously counted.
4. Refunds – Member agrees that T&B will receive as its' compensation for this service a contingency fee of forty percent (40%) of the underpayments identified and recoverable under its agreement and/or state and federal law.
5. T&B has made and makes no guarantee or assurance that our audit will produce a refund due to franchise fee underpayments.
6. If there is no recoverable underpayment identified for the benefit of the Member, T&B acknowledges that there will be no fee payable.
7. If the TIPS Member pays the T&B invoice in full within 30 days of the date of the invoice, there will be a 1% discount on the amount due to T&B.
8. This Agreement sets forth the entire understanding and agreement between the parties.

[TIPS Member Name] _____


By: _____

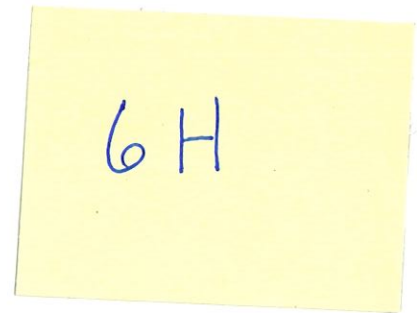
Name: _____

Title: _____

Telephone: _____

Telefax: _____

Troy & Banks

By: _____
Thomas T. Ranallo, Manager



November 15, 2023

Sent via email

Mr. Michael Yeosock, Director
Department of Public Works
City of Glen Cove
Glen Cove, New York 11542

**Re: Proposal for Construction Phase Services
City of Glen Cove
Crescent Beach Environmental Improvements Culvert Replacement
H2M Proposal No. LP231360**

Dear Mr. Yeosock:

The City of Glen Cove received bids on October 23, 2023, for Crescent Beach Environmental Improvements Culvert Replacement. H2M architects + engineers (H2M) is pleased to provide this proposal for professional engineering services during construction of the culvert replacement.

Based on the above, H2M proposes to provide the following services:

Task I – Construction Administration Phase

H2M proposes to provide the following services during the construction phase of the project:

1. **Pre-Construction Conference:** Schedule and conduct a pre-construction conference with the Contractor and the City. The purpose of the conference is to introduce the participants in the project and to familiarize the Contractor with the policies and procedures to be followed during the project. H2M will prepare and distribute meeting minutes.
2. Prepare for signature by the City and contractor the NYSDEC Notice of Commencement of Construction.
3. Draft letter for City to submit to the US Army Corps of Engineers, New York District for notification of the commencement of construction.
4. **Contractor Payment Requisitions:** Receive and log all Contractor payment requisitions (budgeted as 1 requisition per month). Payment requisition pencil copies are to be reviewed and returned with comments indicating acceptability. Approved pencil copies are to be re-submitted for execution. Review relative percentage complete on work items; log inclusion of City required voucher, certified payroll receipts, affidavits of payment of debts and claims. Transmit to the City for review of logged items and for issuance of payment to the Contractor.
5. **Contractor Submittals/Shop Drawings:** Utilize Newforma to electronically receive and log all submittals made by the Contractor in accordance with the approved schedule of submittals. Submittals are to be reviewed and returned with a grade indicating level of acceptability. It will be acceptable for the Contractor to resubmit on any item two times following initial comment by A/E. Additional, delayed, or late reviews requested by the Contractor are subject to be back charged to the Contractor, by the City, to cover additional A/E review time.
6. **Contractor Requests for Information:** Utilize Newforma to receive and log all RFI's submitted by the Contractor. RFI's are to be reviewed and returned with a response suitable to the request made by the Contractor.



7. **Construction Progress Meetings:** During construction, attend two meetings with the City and the Contractor to review the status of the project. H2M will prepare and distribute meeting minutes for each meeting.
8. **Construction Punchlist:** Provide a punchlist inspection of the work upon notice of substantial completion. H2M will prepare a list of final items for the Contractor to address based on this inspection.
9. **Final Inspection:** Provide a final inspection of the work to ensure all punchlist items have been addressed by the Contractor.
10. Prepare for signature by the City and contractor the NYSDEC Notice of Construction Completion.
11. **Contractor Closeout Submittals:** Receive and log closeout submittals made by the Contractor. Review contractor as-built "red-line" drawings. Submittals are to be reviewed and returned with a grade indicating level of acceptability.

Task 2 – Construction Observation

H2M will provide a qualified Construction Inspector on a part-time basis while work is being performed at the site by the contractor to provide on-site construction observation of the project for contractor compliance with the project plans and specifications. The inspector will also attend the preconstruction meeting and progress meetings.

Our estimate of the construction observation budget is based on 100 hours over the course of the project.

REIMBURSABLE EXPENSES

H2M recommends an allowance of **\$1,000.00** and shall be reimbursed for all normal and customary out of pocket expenses required to complete the work on this phase of the project. Reimbursable expenses shall include the following:

1. Drawing and document reproduction and copies
2. Requested Express mail and delivery
3. Mileage

Table 1 below presents the fees for the proposed engineering service described in the tasks above.

Table 1 – Engineering Services Fee Summary

Task #	Description	Fee Type	Fee
1	Construction Administration	Not to Exceed	\$10,600.00
2	Construction Inspection	Not to Exceed	\$12,650.00
--	Reimbursable Expenses	Not to Exceed	\$1,000.00
TOTAL . . .			\$24,250.00

The authorizations to date from the City for H2M services for this project have totaled \$120,000.00. If H2M can reallocate the unused balance of the prior authorizations for the services in this proposal, the



amount the City would need to authorize would be \$16,500.00. The proposed fee considers that the project will be close out before June 30, 2024.

HOURLY RATE SCHEDULE CONSTRUCTION PHASE

Title	Rate (\$/hr)
Project Manager	\$170.00
Project Engineer	\$99.59
Inspector	\$126.50

All terms and conditions shall be as set forth in the agreement for professional engineering services between H2M and the City of Glen Cove dated January 27, 2023.

Invoicing will be monthly. This offer to perform the proposed services shall remain open for ninety (90) days from the date of this proposal. Extensions of this proposal shall be in writing only.

Upon receipt of authorization from the City, H2M will commence effort on this project.

We appreciate the opportunity to work with the City of Glen Cove on this project. Please call me at 631.756.8000 Ext. 1510 should you have questions regarding this letter.

Very truly yours,

H2M architects + engineers

A handwritten signature in blue ink that reads "Steven C. Hearl".

Steven C. Hearl, P.E., LEED AP
Vice President

SCH

ecc: Rocco Graziosi

PROPOSAL AGREED & ACCEPTED BY:

Signature: _____

Print Name: _____

Title: _____

Client: City of Glen Cove
Address: 9 Glen Street
Glen Cove, New York 11542

Date: _____

6K

DEPARTMENT: Fire

BUDGET YEAR: 2023

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	INCREASE BUDGET	DECREASE BUDGET
A3410-55423	INSPECTION + INSTALLATION	—	\$9,000.00
A3410-52230	Equipment Replace	\$9,000.00	

Reason for Transfer: To Cover new Equipment bills coming in.

Department Head Signature: [Signature]

Date: 11/16/2023

City Controller Approval: [Signature]

Date: 11/20/23

City Council Approval – Resolution Number: _____

Date: _____



City of Glen Cove
9 Glen Street
Glen Cove, NY 11542

BUDGET TRANSFER FORM

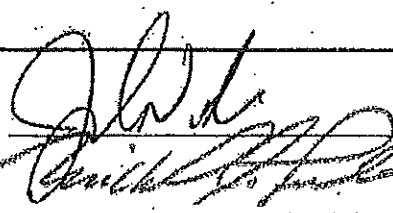
DEPARTMENT: Police

BUDGET YEAR 2023

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	INCREASE BUDGET	DECREASE BUDGET
A3120-55855	Uniforms	\$5000.00	
A3120-55442	Training		\$5000.00

Reason for Transfer:

Cover uniform invoices

Department Head Signature: 

Date: 11/16/2023

City Controller Approval: 

Date: 11/16/23

City Council Approval - Resolution Number: _____

Date: _____