

COUNTY OF SUFFOLK



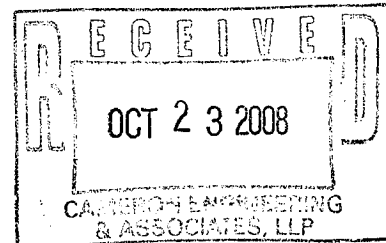
STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PUBLIC WORKS

THOMAS LAGUARDIA, P.E.
CHIEF DEPUTY COMMISSIONER

GILBERT ANDERSON, P.E.
COMMISSIONER

LOUIS CALDERONE
DEPUTY COMMISSIONER



October 17, 2008

John Cameron, P.E.
Cameron Engineering
100 Sunnyside Blvd.
Woodbury, NY 11797

SUBJECT: Rocky Point Business District Sewering Feasibility Study

Dear Mr. Cameron:

Attached please find a Request for Proposal which includes the requirements for submitting a proposal along with a Scope of Work and pertinent information associated with this project. The selected consultant will complete this work in accordance with the provisions of an agreement with the County, a draft of which is included as Exhibit 'D'. Proposals are due no later than 4:00 PM on Friday, December 5, 2008.

If you have any questions or wish to visit the site(s), please call Ben Wright at 631-852-4204.

Sincerely,


Thomas LaGuardia, P.E.
Chief Deputy Commissioner

TL:BW:ni
Encl.

cc: Gil Anderson, P.E., Commissioner
Ben Wright, P.E., Chief Engineer, Sanitation
John Donovan, P.E., Principal Civil Engineer
tl-bw10-17-08 Rocky Point Sewer Study Ltr to JCameron

SUFFOLK COUNTY IS AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

COUNTY OF SUFFOLK
NEW YORK
DEPARTMENT OF PUBLIC WORKS

REQUEST FOR PROPOSAL

FOR

ROCKY POINT BUSINESS DISTRICT
SEWERING FEASIBILITY STUDY
CAPITAL PROJECT NO. 8187

GILBERT ANDERSON, P.E.
COMMISSIONER

OCTOBER 2008

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INTRODUCTION

The County of Suffolk plans to issue an RFP that will be used to provide a feasibility study on sewerage of the Rocky Point Business District. The area will be reviewed with respect to current proposals and future demands. A cost/benefit analysis of constructing facilities to address future demands for services will be required. Authorization initiating this project is included within Resolution 772-2008 which is attached as Exhibit 'A'.

PART I - GENERAL INFORMATION AND SUBMISSION FORMAT

This section provides general information necessary for the preparation and submission of a response to this RFP.

A. GENERAL INFORMATION

1. Issuing Office and Reply

This RFP is issued by the Suffolk County Department of Public Works and all replies should be addressed to:

Gilbert Anderson, P.E.
Commissioner of Public Works
County of Suffolk
335 Yaphank Avenue
Yaphank, New York 11980

Information regarding this RFP may be obtained by contacting:

Ben Wright, P.E.
Chief Engineer
Sanitation Division
Phone Number (631) 852-4204

2. Receipt of Proposals

Proposals must be received in the Office of the Commissioner no later than 4:00 PM on Friday, December 5, 2008.

3. Preproposal Meeting

A meeting will be held to answer questions directly related to this RFP. The meeting will be held at the DPW offices in Yaphank at 10:00 am on Thursday, November 6, 2008.

4. Presentations

The County may require oral presentations by respondent to this RFP at dates and times to be specified by the County.

5. Length of Submission

There is no limit to the length of proposals submitted in response to this RFP.

6. Rejection of Submission/Selection of Alternatives

The County reserves the right to select any and/or reject any or all proposals, or to award in whole or in part, or to waive informalities, if in its opinion, the best interest of the County will thereby be promoted.

7. Cost Liability

The County assumes no responsibility or liability for costs incurred by respondents prior to an award of a contract, including costs incurred with the preparation and submission of proposals in accord with this RFP.

8. Revisions to the Request for Proposals

In the event it becomes necessary to revise any part of this RFP, an addenda will be provided to all who received the initial RFP.

9. Proposals

To be considered for selection, respondents must submit a complete response to this RFP. One original and four (4) copies of each proposal must be submitted to the County. No other distribution of the proposal shall be made by the respondent. All proposals submitted under this RFP will become the property of the County.

10. Subcontract

No part of the work can be assigned, transferred, conveyed, sublet or otherwise disposed of without the County's consent and written approval. All proposed joint ventures shall be so identified.

11. Evaluation of Proposal

Proposals will be evaluated by the County in accordance with the following criteria:

- a. The merits of the respondent's proposal to this RFP for consulting services.
- b. Project organization and management, including staffing and management control.
- c. The specialized experience and competence of the respondent, including the individual expertise of the project team members.
- d. The capability, responsibility and past performance of the respondent.
- e. Ability to meet the County's schedule if indicated.
- f. Past performance on projects of a similar scope and subject matter.

B. SUBMISSION FORMAT

All proposals submitted must be organized and consist of the following information:

1. Letter of Transmittal
2. Executive Summary of Consultant's Proposal
3. Consultant's experience for this project and similar experience on related projects are to be submitted. Descriptions should include a summary of work performed, the period over which the work was complete, and the extent of the consultant's effort.
4. Work Plan
 - a. A description of the consultant's plan for completing the work as described in this RFP. The plan must include a breakdown and description of proposed tasks of each element. If the consultant proposes any additional services, they must be addressed separately.
 - b. Schedule - A project schedule is to be developed which illustrates the project's major tasks and length of time anticipated to complete each task of this project. All reports and other documents

will be approved by the County, thus indicated in the schedule. Consider Appendix 'B' Scope of Work, in developing this schedule.

- c. Periodic meetings with County representatives in accordance with the contract.

5. Staffing

The consultant shall prepare a proposed staffing plan that will include:

- a. Preparation of a basic project organizational structure.
- b. Identify key project members, provide specific responsibilities of each and list previous relevant experience. Resumes are to be included for those individuals that have not been involved with a Suffolk County DPW Sanitation project in the past 3 years and will be involved with this project.
- c. Identify subconsultants and joint ventures. Refer to Section I, A.10.

6. Cost Proposal

- a. Costs are to be provided for the completion of all Tasks required by Appendix 'B', including:
 - I. Feasibility Report
 - II. Project Administration
 - III. Deliverables

A cost should be listed for each of the above Tasks as defined in the Scope of Work. The consultant should identify any costs associated with increased tasks suggested or credits for innovative modifications to the Scope.

- b. Compensation for services rendered will be based on completion of all work, labor and services contemplated to complete the project. The consultant agrees that the total cost of the agreement includes all travel and other expenses of every nature and kind whatsoever, regardless of the total amount of time expended or expenses actually incurred, except for increases due to

change orders or amendments to the agreement as would be mutually agreed to in writing by both parties. The schedule of payments is to be included in the engineering services agreement to include the concepts listed above.

- c. The Fee proposal shall be submitted in a sealed envelope separate from all other documents and include hours and job classification for various tasks. Only one (1) copy of this cost proposal is to be submitted.

7. Suffolk County Affirmative Action Plan

One of the goals of the Suffolk County Affirmative Action Plan, Appendix "E", is to prohibit discrimination and provide equal opportunity to qualified applicants for contracts, subcontracts, and grants with the County.

Suffolk County is committed to assure compliance with all Federal and State requirements designed to guarantee that protected classes have equal access to contracting opportunities.

The consultant shall use all good faith efforts to implement the Suffolk County Women and Minority-Owned Business Enterprise Program and to solicit active participation by enterprises identified in the "Suffolk County Directory of Certified Women/Minority Business Enterprises" (County W/MBE Directory) as certified women and minority-owned business enterprises. A goal of 12% for WBE/MBE participation is desired.

The respondent to this RFP shall include in its submittal a completed "Affidavit and Certification" Form.

C. SELECTION PROCESS

The consultant(s) will be chosen based upon a review of their submitted proposal as indicated in Part I, A.11.

1. Selection Team - The selection team will consist of professional representatives from the Commissioner's office and the Sanitation Division office of the Department of Public Works.
2. All proposals will be reviewed by each selection team member.

3. Interviews, when required, will be conducted.
4. The selection team will rank the firms based on the merits of their proposals and presentations.
5. The fee/cost proposal of the firms will be opened and evaluated by the selection team. Cost will be a consideration in the selection.
6. The top-ranked firm will be called in to discuss the details of their proposal, including the cost proposal. If an agreement on fee is reached, the top-ranked firm will be the chosen consultant for each element.
7. If an agreement on fee is not reached with the top-ranked firm for each element, negotiations will ensue with the second-ranked proposer, and so forth, until a consultant is chosen, or until the County decides to suspend negotiations, in its best interests.

PART II - SCOPE OF WORK

The scope of work for the Project includes the concepts of the project which are outlined in Appendix 'B' - Scope of Work. The Scope generally includes various technical, financial, and legal expertise to provide a feasibility study that will include current proposals and future demand of sewer service and the cost/benefit analysis associated with creating capacity and providing alternatives that deal with non-structural approach to providing service while protecting the environment, being cost effective and socially acceptable. In preparing the proposal, the consultant shall refer to such information as contained in Appendix "A", "B", and "C".

PART III - NOTICE OF PUBLIC DISCLOSURE/GRATUITIES/NON COLLUSIVE BIDDING CERTIFICATIONS/LIVING WAGE

A. Public Disclosure Statement

The Consultant shall submit a satisfactorily completed Form SCEX 22 "Public Disclosure Statement" for each whole or partial calendar year during which this contract remains in effect. Such submittal shall be made prior to January 31 of each calendar year. Failure to so submit may be cause of immediate cancellation of the agreement without recourse on the part of the Consultant (referenced Suffolk County Local Law No. 14 Year 1976). Forms shall be supplied by the County.

B. Gratuities

The Consultant certifies that he has not offered or given any gratuity to any official, employee or agent of Suffolk County, New York State, or of any political party, with the purpose or intent of securing this agreement or securing favorable treatment with respect to the awarding or amending of this agreement, or the making of any determinations with respect to the awarding or amending of this agreement, and that he has read and is familiar with the provision of Local Law 32 Year 1980, Suffolk County, New York.

C. Non-Collusive Bidding Certification

The Consultant hereby agrees that the only person or persons interested as principal or principals in the bid or proposal submitted by the Consultant for this agreement are named therein, and that no person other than those mentioned therein has any interest in the above-mentioned proposal or in the securing of the award, and that this agreement has been secured without any connection with any person or persons other than those named, and that the proposal is in all respects fair and was prepared and the agreement was secured without collusion or fraud and that neither any officer nor employee of the Suffolk County Department of Public Works has or shall have a financial interest in the performance of the agreement or in the supplies, work or business to which it relates, or in any portion of the profits thereof.

D. Living Wage

Pursuant to Section 6 of Chapter 347 of the Suffolk County Local Law No. 12-2001, the Living Wage Law, all RFP's, County contracts and financial assistance agreements subject to the law shall contain the following two paragraphs or substantially equivalent language:

This Agreement is subject to the Living Wage Law of the County of Suffolk. The law requires that, unless specific exemptions apply, or a waiver is granted, all employers (as defined) under service contracts and recipients of county financial assistance (as defined), shall provide payment of a minimum wage to employees (as defined) of \$10.02 per hour with health benefits of at least \$1.39 per hour or otherwise \$11.41 per hour. Such rate shall be adjusted annually pursuant to the terms of the Suffolk County Living Wage Law, of the County of Suffolk.

Under the provision of the Living Wage Law, the County shall have the authority, under appropriate circumstances, to terminate this Agreement and to seek other remedies as set forth therein, for violations of this Law.

Further information, text of the law, frequently asked questions, and forms can be found on the Suffolk County web site at www.co.suffolk.ny.us.

Click Department Directory
Labor
Living Wage Law Info

PART IV - DRAFT AGREEMENT FOR SERVICES

The successful respondent will be required to enter into an agreement with the County. A draft agreement, Appendix "D", is attached for information purposes.

10-15-08 RFP cover sheet

APPENDIX "A"

Resolution 772-2008

Intro. Res. No. 1802-2008

Laid on Table 8/19/2008

Introduced by Presiding Officer, on request of the County Executive and Legislators Losquadro, Horsley

RESOLUTION NO. 772 -2008, AMENDING THE 2008 CAPITAL BUDGET AND PROGRAM, AND APPROPRIATING FUNDS IN CONNECTION WITH PREPARING A SEWERING FEASIBILITY STUDY FOR THE ROCKY POINT BUSINESS DISTRICT (CP 8187)

WHEREAS, the Rocky Point Business District along New York State Route 25A would benefit from the creation of a sewer district; and

WHEREAS, the creation of a sewer district in Rocky Point has the potential to increase business investment, increase workforce housing opportunities and provide greater environmental protection in this community; and

WHEREAS, the presence of sewers would allow for greater building density and the creation of affordable, workforce housing in these communities; and

WHEREAS, sufficient funds are not included in the 2008 Capital Budget and Program to cover the cost of said request and pursuant to Suffolk County Charter, Section C4-13, an offsetting authorization must be provided from another capital project; and

WHEREAS, Resolution No. 471-1994 as revised by Resolution No. 461-2006, established the use of a priority ranking system, implemented in the Adopted 2008 Capital Budget, as the basis for funding capital projects such as this project; and

WHEREAS, that this Legislature, by resolution of even date herewith, has authorized the issuance of \$300,000 in Suffolk County Serial Bonds; now, therefore be it

1st RESOLVED, that it is hereby determined that this project, with a priority ranking of fifty-five (55), is eligible for approval in accordance with the provisions of Resolution No. 471-1994 as revised by Resolution No. 461-2006; and be it further

2nd RESOLVED, that the 2008 Capital Budget and Program be and is hereby amended as follows:

Project No.: 5168

Project Title: Reconstruction of Portions of CR 11 Pulaski Road - Huntington

| <u>Cost Element</u> | <u>Total Est'd Cost</u> | <u>Current 2008 Capital Budget & Program</u> | <u>Revised 2008 Capital Budget & Program</u> |
|---------------------|-------------------------|--|--|
| 3. Construction | \$ 250,000 | \$ 550,000 B | \$250,000 B |
| TOTAL | \$1,300,000 | \$1,050,000 | \$750,000 |

Project No.: 8187
 Project Title: Rocky Point Business District Sewer Feasibility Study

| <u>Cost Element</u> | <u>Total Est'd Cost</u> | <u>Current 2008 Capital Budget & Program</u> | <u>Revised 2008 Capital Budget & Program</u> |
|-------------------------------------|-------------------------|--|--|
| 1. Planning, Design and Supervision | \$300,000 | \$ 0 | \$300,000 B |
| TOTAL | \$300,000 | \$ 0 | \$300,000 |

and be it further

3rd **RESOLVED**, that the proceeds of \$300,000 in Suffolk County Serial Bonds be and they hereby are appropriated as follows:

| <u>Project Number</u> | <u>JC</u> | <u>Project Title</u> | <u>Amount</u> |
|---|-----------|---|---------------|
| 525-CAP-8187.110 (Fund 001-Debt Service) | 80 | Rocky Point Business District Sewer Feasibility Study | \$300,000 |

and be it further

4th **RESOLVED**, that the Administrative Head of the Sewer Districts be and hereby is authorized, directed and empowered to issue an RFP and enter into contracts and agreements upon such terms and conditions as he may deem necessary relating to consultant assistance for the planning of this project; and be it further

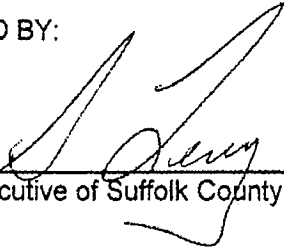
5th **RESOLVED**, that should this Sewer Feasibility Study result in the creation of a new sewer district for the Rocky Point Business District operated by Suffolk County, a local municipality, an association or a private developer that the cost associated with this Sewer Feasibility Study, both principal and interest incurred on the serial bonds, will be repaid to the Suffolk County General Fund 001 by the new Sewer District; and be it further

6th **RESOLVED**, that in accordance with applicable provisions of law the expenditures which are attributable to the establishment of a district, shall be apportioned against the users of such district and reimbursed to the County for the costs herein; and be it further

7th **RESOLVED**, that this Legislature, being the lead agency under the State Environmental Quality Review Act ("SEQRA"), Environmental Conservation Law Article 8, hereby finds and determines that this law constitutes a Type II action, pursuant to Section 617.5 (C) (18), (21) and (27) of Title 6 of New York Code of Rules and Regulations ("NYCRR"), in that the law authorizes information collection, including basic data collection and research, and preliminary planning processes necessary to formulate a proposal for an action, but does not commit the County to commence or approve an action. Since this law is a Type II action, the Legislature has no further responsibilities under SEQRA.

DATED: September 16, 2008

APPROVED BY:



County Executive of Suffolk County

Date:

SEP 26 2008

Intro.Res. No. 1802A-2008

BOND RESOLUTION NO. 773-2008

BOND RESOLUTION OF THE COUNTY OF SUFFOLK, NEW YORK, AUTHORIZING THE ISSUANCE OF \$300,000 BONDS TO FINANCE THE COST OF A SEWERING FEASIBILITY STUDY FOR THE ROCKY POINT BUSINESS DISTRICT (CP 8187.110)

THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said County Legislature) AS FOLLOWS:

Section 1. The County of Suffolk, New York (herein called the "County"), is hereby authorized to issue bonds in the principal amount of \$300,000 pursuant to the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (referred to herein as the "Law"), the Suffolk County Charter and other applicable laws, to finance the cost of a sewerage feasibility study for the Rocky Point Business District, as authorized in the 2008 Capital Budget and Program, as amended. The estimated maximum cost of the project described herein, including preliminary costs and costs incidental thereto and the financing thereof, is \$300,000. The plan of financing includes the issuance of \$300,000 bonds or bond anticipation notes authorized pursuant to this resolution and the levy and collection of taxes on all the taxable real property in the County to pay the principal of said bonds or notes and the interest thereon as the same shall become due and payable.

Section 2. The period of probable usefulness applicable to the object or purpose for which said bonds are authorized to be issued, within the limitations of Section 11.00 a. 62 of the Law, is five (5) years.

Section 3. The proceeds of the bonds herein authorized, and any bond anticipation notes issued in anticipation of said bonds, may be applied to reimburse the County for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized, or for such expenditures made on or prior to the effective date if a prior statement of intent to issue bonds has been made. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

Section 4. Each of the bonds authorized by this resolution, and any bond anticipation notes issued in anticipation of the sale of said bonds, shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds, and any notes issued in anticipation of said bonds, shall be general obligations of the County, payable as to both principal and interest by a general tax upon all the taxable real property within the County without limitation as to rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds, and any notes issued in anticipation of the sale of said bonds, and provision shall be made annually in the budget of the County by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Resolution No. 320 of 1966, as amended by Resolution No. 81 of

1972, and Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the County Legislature relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and relative to executing contracts for credit enhancements and providing for substantially level or declining annual debt service, are hereby delegated to the County Comptroller, the chief fiscal officer of the County.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

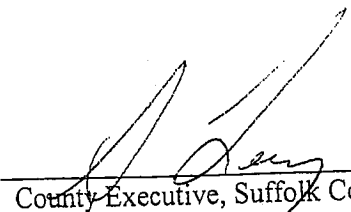
- (a) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This bond resolution shall take effect immediately upon approval by the County Executive, and the Clerk of the Legislature is hereby authorized and directed to publish the foregoing resolution, in summary or in full, together with a Notice attached in substantially the form prescribed by Section 81.00 of the Law in the official newspaper(s) of the County.

Dated: SEP 16 2008

APPROVED: 
County Executive, Suffolk County

Date of Approval: SEP 26 2008, 2008

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on September 16, 2008 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the County Legislature

APPENDIX "B"

Scope of Work

APPENDIX B – Scope of Work

General Scope

It is the intent of the RFP to obtain a feasibility report that develops the necessary sewerage facility infrastructure to improve economic, housing opportunities, and environmental aspects of the Rocky Point Business District.

TASK I – Feasibility Report

- A) Prepare a Feasibility report to develop the project as described below. The report should have the following format considering other requirements of this task:
1. Title Page
 2. Table of Contents
 3. Letter of Transmittal
 4. Executive Summary- brief summary of findings, conclusions and recommendations
 5. Introduction – purpose and scope
 6. Work Plan – includes breakdown of tasks and schedule to complete Feasibility Study and Report.
 7. Project Development – the scope of the project is described below
 8. Technical Information
 9. Legal Considerations
 10. Financial Consideration
 11. Schedule
 12. Cost Opinions and Trends
 13. Conclusions and Recommendations
- B) Review and summarize any existing comprehensive plans or reports for use as baseline conditions. (see exhibit ‘C’)
- C) Develop a database on the exiting conditions within the study area. Data should include but not be limited to: potential service area users including opportunities of office, affordable housing, commercial use, etc., wastewater characteristics (classes or types of development), potential treatment process and capacity, land requirements, proximity to adjacent sewerred areas, future demand, environmental issues, etc.
- D) Consider regulatory and permit issues along with the potential for future restrictions and impacts. The link with the 10 State Standards and, the 6NYCRR Part 750 must be recognized.
- E) Evaluate and identify need of sewers for environmental, social, economic, or revitalization purposes. A cost/benefit analysis is required

- F) Legal considerations must include Article 5-A of New York State County Law. The procedural steps to create sewer districts is required.
- G) Financial considerations discussed must include Article 5-A of New York State County Law requirements.
- H) A schedule must be included for all tasks to implement a sewer project. Tasks would span the area from a notice to proceed for initiating engineering services through the completion of construction. It would be assumed that the environmental impact statement would be necessary along with sewer district formation and the approval of the New York State Comptroller's office. Consultants would determine the necessity of various tasks associated with completing these projects.
- I) Cost opinions would be established. The relatively recent increased inflationary cost associated with constructing wastewater treatment facilities and other related issues should be discussed. The consultant should consider the various components of sewerage facilities along with alternative conveyance, treatment processes and disposal alternates and their relative cost comparisons.

TASK II - Project Administration

- 1) Progress Reports. The consultant will report progress at monthly meetings with the SCDPW. Written progress reports will be prepared by the consultant and submitted according to a schedule agreed upon by the consultant and SCDPW. These progress reports will be suitable for possible distribution to elected officials, and stakeholders.
- 2) Additional Meetings. It will be necessary for the consultant to provide a representative at additional meetings (e.g. Town, County officials, and Business District Representation) to confer with various government regulatory agencies having jurisdiction in matters relating to the project. Discussion will include sewerage limits, locations of sewers, force mains, pump stations, traffic maintenance and any other type of meetings necessary for a proper and realistic recommendation, are included in this scope.

TASK III – Deliverables

The consultant will provide:

- 50 copies of engineering reports
- 50 copies of power point presentation discs.
- 100 paper copies of power point presentation.

APPENDIX "C"

Related Documents

COUNTY OF SUFFOLK



STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PUBLIC WORKS

THOMAS LAGUARDIA, P.E.
CHIEF DEPUTY COMMISSIONER

GILBERT ANDERSON, P.E.
COMMISSIONER

LOUIS CALDERONE
DEPUTY COMMISSIONER

M E M O R A N D U M

TO: File

FROM: Ben Wright, P.E.

SUBJECT: Rocky Point Sewers

DATE: June 6, 2008

On June 4th, the meeting was attended in Legislator Losquadro's office to discuss the Rocky Point Business District as it relates to revitalization, affordable housing, and sewerage. Those in attendance included Walter Hilbert, Legislator Losquadro's aide Kelly Anne, and representatives from Rocky Point including Drew Martin, and Richard Johansen (?). The desire of the community representatives would be to have a subregional sewerage facility from the Tall Grass development to the Rocky Point drive-in site. The extent along Route 25A of the proposed service area is approximately 3 miles. Much discussion involved the relationship to that type of development to studies more recently performed for Smithtown and Kings Park as well as CR 80 in Mastic. The suggestion that the RFP Committee and Sewer Task Force could incorporate Rocky Point into the plans was generally negative due to the time schedule associated with that work. Legislator Losquadro will look into the source of funding to perform a study which was suggested to be similar to the Kings Park project which was approximately \$240,000 a year ago. Using the information developed for Kings Park and Smithtown, it is assumed that the 3 mile area would generate as much as a million gallons per day and a plant could cost \$30-\$40 million. All costs discussed at this meeting were not for use in obtaining funds although it is likely that approximately \$250,000 would be requested for a study. The capital project that Jim Morgo has available for infrastructure will be discussed with County Executive Levy at a meeting the business community has with him in the following weeks. DPW may be

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requested through a legislative resolution to evaluate certain available data and water authority records in developing the potential for flow as it exists today and extrapolate data developed for Smithtown for the use for Rocky Point Business District representatives. At this time no further action is necessary from DPW.

BW/ni

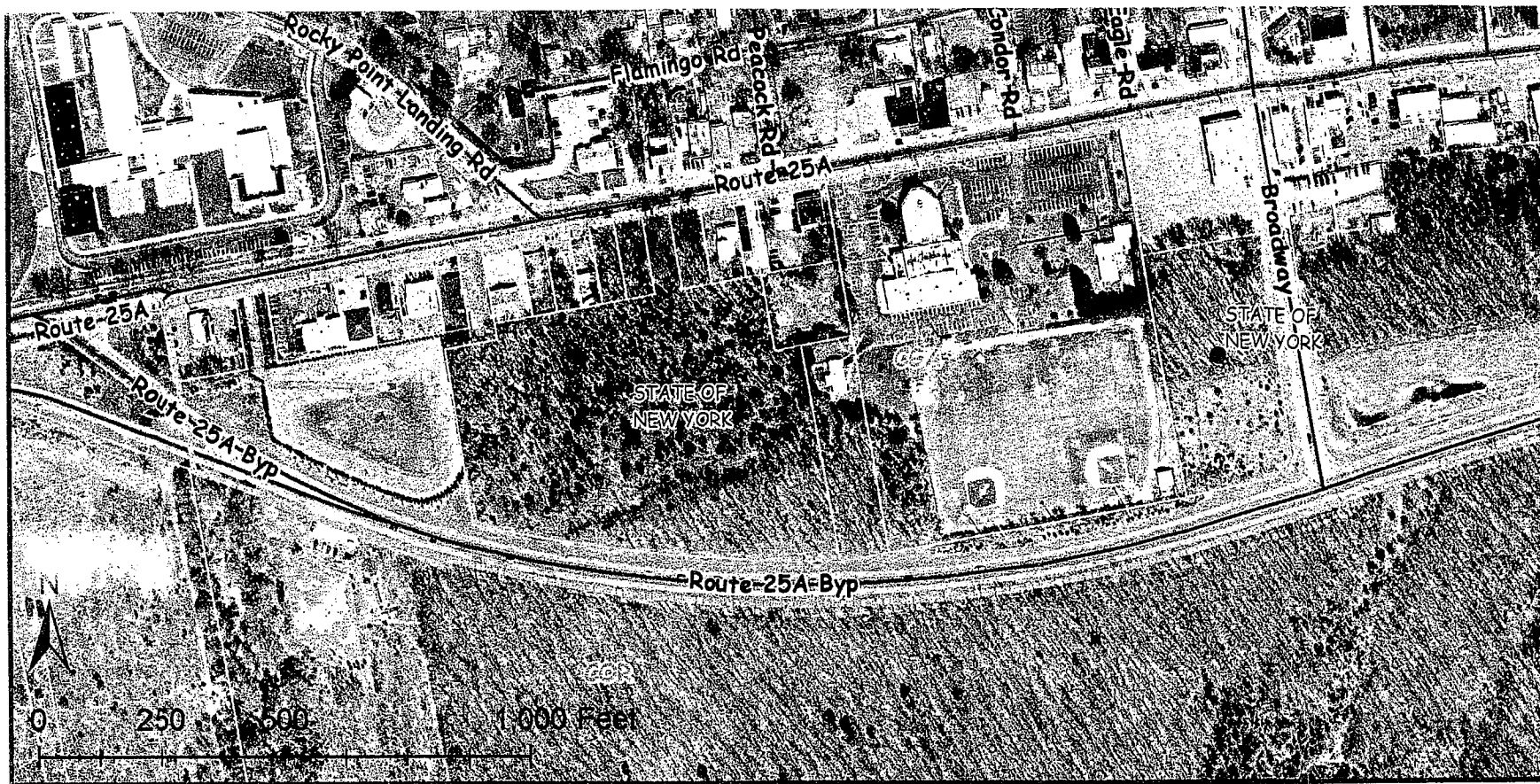
Attachment

cc: Gil Anderson, P.E., Commissioner

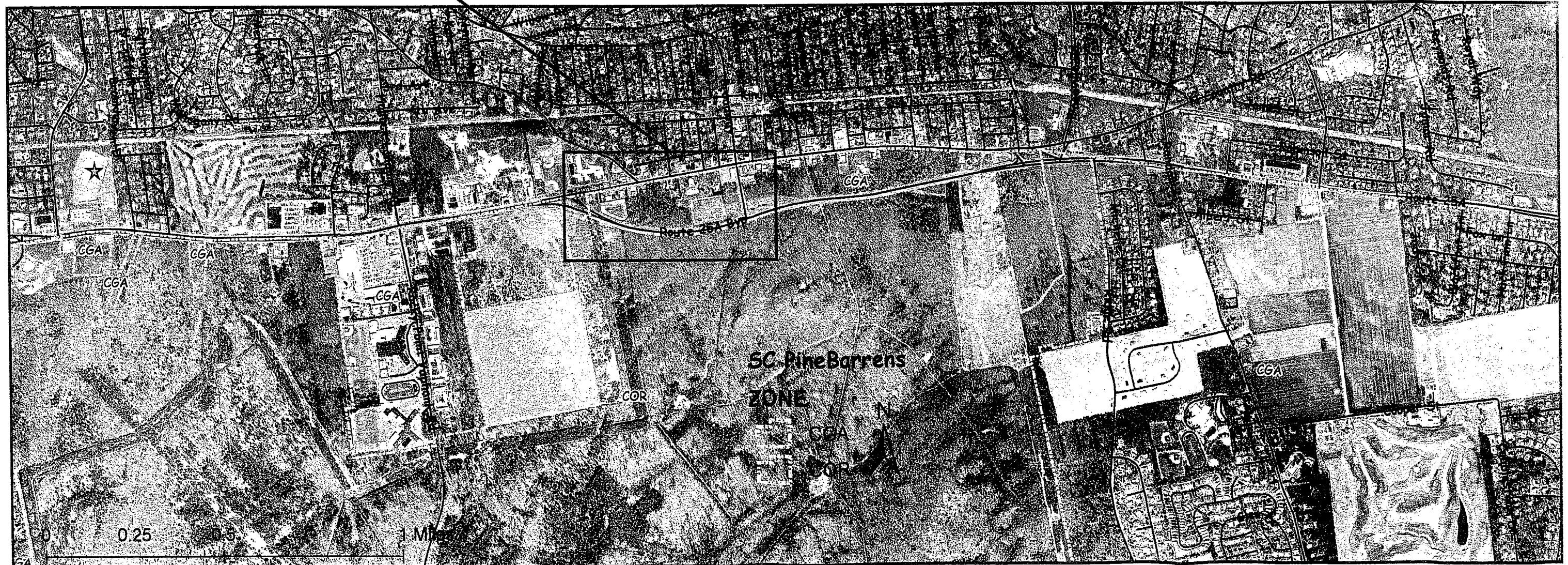
John Donovan, P.E.

Craig Platt

bw6-6-08 sd-gen Rocky Point Sewers memo to file



Rocky Point Study Area
June 17, 2008
2004 Aerials



APPENDIX "D"

Sample Agreement

**ROCKY POINT BUSINESS DISTRICT
SEWERING FEASIBILITY STUDY
Capital Project 8187**

This Agreement ("Agreement"), dated as of xxxxxxxx, 2008 is between the **County of Suffolk ("County")**, a municipal corporation of the State of New York, having its principal office at the County Center Riverhead, New York 11901, acting through its duly constituted Department of Public Works, ("**Department**"), located at 335 Yaphank Avenue, Yaphank, New York 11980-9744; and

xxxxx ("**Consultant**"), having its principal place of business at xxxx, NY 11xxx.

The parties hereto desire to enter into an agreement for the purpose of providing engineering assistance services pursuant to Resolution No. 772-2008 for a sewerage feasibility study of the Rocky Point Business District ("Services").

Term of Agreement: Shall be through the completion of the feasibility study.

Total Cost of Agreement: Shall not exceed xxxxxxxxxxxxxxxx (\$xxxx). Refer to Exhibit C.7, "Agreement Subject to Appropriation of Funds".

Terms and Conditions: Shall be as set forth in Exhibits A through G; which exhibits shall be deemed a part hereof whether attached hereto or incorporated by specific reference thereto.

In Witness Whereof, the parties hereto have executed this Agreement as of the latest date written below.

County of Suffolk

By: _____
Name:
Title:
Fed. Tax ID #
Date: _____

(Corporate Seal of Consultant, if a Corporation)

By: _____
Name _____
Title _____
Date: _____

Approved: Department of Public Works

By: _____
Gilbert Anderson, P.E.
Commissioner
Date: _____

**Approved As To Legality:
Christine Malafi, County Attorney**

By: _____
Name
Assistant County Attorney
Date: _____

(Acknowledgment by Consultant, if an individual)
STATE OF NEW YORK)

) ss:
COUNTY OF)

On this ____ day of _____, 20 ____, before me personally came _____ to me known and known to me to be the person described in, and who executed the foregoing instrument, and duly acknowledged that he executed the same.

(SEAL)

Notary Public County

(Acknowledgment by Consultant, if a partnership)
STATE OF NEW YORK)

) SS:
COUNTY OF)

On this ____ day of _____, 20 ____, before me personally came and appeared _____ to me known and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for himself depose and say that he is a member of the firm of _____ consisting of himself and _____ and that he executed the foregoing instrument in the firm name of _____, and that he had authority to sign, and he did duly acknowledge to me that he executed the same as the act and deed of said firm of _____, for the uses and purposes mentioned therein.

(SEAL)

Notary Public County

(Acknowledgment by Consultant, if a corporation)
STATE OF NEW YORK

) SS:
COUNTY OF)

On this _____ day of _____, 20 ____, before me personally came _____ to me known, who, being duly sworn by me, did depose and say that he resides in _____ of the _____ the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of such Corporation, and that he signed his name thereto by like order.

(SEAL)

Notary Public County

List of Exhibits

Exhibit A

General Terms and Conditions

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2. Term and Termination
3. Indemnification
4. Insurance
5. Non-compensatory and Minor Changes
6. Death or Disability of the Consultant
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8. Disposition of Plans, Estimates and other Data
9. Damages and Delays
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Exhibit C
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Exhibit D
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Exhibit E
Description of Services

Exhibit F
Consultant's Proposal, dated xxxxxxxx

Exhibit G
Schedule of Payments

Exhibit A
General Terms and Conditions

Whereas, the Commissioner deems it necessary to retain the services of a Consultant in connection with providing a feasibility study to sewer the Rocky Point Business district; and

Whereas, the provision of such services by the Consultant constitutes personal services of a consulting nature within the intent and purview of Article VIII, Section C8.2 of the Suffolk County Charter;

Now Therefore, in consideration of the mutual provisions and covenants hereafter set forth, the parties hereto agree as follows:

1. Responsibilities of the Parties

a. Services

Subject to the direction and control of the Commissioner of Public Works ("Commissioner"), the Consultant shall provide all the necessary and usual professional services in connection with the xxxxxxxxxx (the "Project") including the services more particularly described in Exhibit E entitled "Description of Services," and the Consultant's Proposal at Exhibit F, and subject to the payment terms set forth at Exhibit C and Wage Rate requirements at Exhibit G.

b. County Representative and Liaison

The Chief Engineer – Sanitation Division ("Chief Engineer") shall be the expert representative of the Commissioner in dealings with the Consultants, and will act as liaison between the Consultant and the various County agencies involved in or concerned with the Project. The Chief Engineer will prepare the program and plot development, and will supervise the design and construction of the Project. The Chief Engineer's official instructions, approvals, and disapprovals of the work of the Consultant shall be received and acted upon as if they had been received directly from the Commissioner.

c. County Final Arbiter

The decisions of the County shall be final and binding upon the Consultant as to all matters arising in connection with, or relating to, this Agreement. To prevent all disputes and litigation, the County shall in all cases determine the amount, quality, acceptability and fitness of the work being performed under the provisions of the Agreement, and shall determine every question which may arise relative to the fulfillment of the Agreement on the part of the County and the Consultant. The County's findings and determinations shall be final, conclusive and binding upon the Consultant. In the event any question shall arise, acceptance of the findings and determinations of the Commissioner shall be a conditions

the terms of this Agreement.

d. Consultant Services

1. The Consultant shall perform such professional services as may be necessary to accomplish the work required to be performed under and in accordance with this Agreement. The Consultant specifically represents and warrants that it has and shall possess, and that its employees, agents and subcontractors have and shall possess, the required education, knowledge and experience, if any, necessary to qualify them individually for the particular duties they perform.

2. The Consultant shall immediately notify the Department in writing of any disciplinary proceedings against the holder of any license issued by the State of New York or other issuer of a license. In the event that the Consultant is no longer licensed for any one or more of the licensed services, the Consultant must immediately so notify the Department.

e. Certificate of Authorization

Upon execution of this Agreement, the Consultant shall submit to the County of Suffolk, and in the event a subconsultant and/or subcontractor shall perform all or any part of the engineering services required hereunder, its subconsultants' and or subcontractors', Certificate(s) of Authorization issued pursuant to § 7210 of the New York Education Law.

f. Executory Contract

This Agreement shall remain executory until such time as the Commissioner requests that services which are to be provided under the Agreement be performed. This Agreement shall in no way obligate the County to the payment of a retainer fee of any kind.

g. Ownership of Documents

All drawings, tracings, and specifications to be prepared and furnished by the Consultant shall become the property of the County upon their approval, acceptance in writing, by the Commissioner or upon the prior termination of the Consultant's services. The Consultant shall furnish to the County the number of engineering reports, environmental documents and other deliverables required in the RFP and identified in the Consultants proposal. The Consultant shall retain the copyright.

2. Term and Termination

a. Term

The Consultant agrees to complete the work under this Agreement in a manner satisfactory to the Chief Engineer for the Commissioner of Public Works through the construction phase, unless an extension is granted by the Department in writing.

b. Postponement, Delay, Suspension, or Termination

- i. The County shall have the right to postpone, delay, suspend or terminate the services for which the Consultant is herein engaged, at any time and for any reason deemed to be in the County's best interest. Upon the Consultant's receipt of notice that the County has elected to postpone, delay, suspend or terminate the services of the Consultant, the Consultant shall promptly discontinue all services affected unless otherwise directed by the County.
- ii. In the event the performance of the Consultant's services are postponed, delayed, suspended or terminated pursuant to the subsection above, the Consultant shall be paid such part of the fee as shall have been earned which shall fairly compensate the Consultant for the work performed pursuant to the Agreement. The determination of what constitutes fair compensation for work performed shall be made solely by the County. Such postponement, delay or suspension shall not give rise to any cause of action for damage or for extra remuneration against the County.

c. Termination for Cause

This Agreement may be terminated in whole or in part in writing by the County in the event of failure by Consultant to fulfill any of the terms and conditions under this Agreement; provided that no such termination shall be effective unless Consultant is given five (5) calendar days' written notice of intent to terminate ("Notice of Intent to Terminate"), delivered personally or by certified mail, return receipt requested. During such five (5) day period, Consultant will be given an opportunity for consultation with the County and an opportunity to cure all failures of its obligations prior to termination. Prior to issuance of a written termination notice ("Termination Notice") by the County, Consultant shall be given an additional five (5) days to cure all failures to fulfill its obligations under this Agreement. In the event that the Consultant has not cured all its failures to fulfill its obligations to the satisfaction of the County by the end of the combined ten (10) day period, the County will issue a Termination Notice, effective immediately.

3. Indemnification

The Consultant agrees that it shall protect, indemnify and hold harmless the County and its officers, officials, employees, contractors, agents and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorneys' fees, arising out of the acts or omissions or the negligence of the Consultant in connection with the services described or referred to in this Agreement. The Consultant shall defend the County and its officers, officials, employees, contractors, agents and other persons in any suit, including appeals, or at the County's option, pay reasonable attorney's fees for defense of any such suit arising out of the acts or omissions or negligence of the Consultant, its

officers, officials, employees, subcontractors or agents, if any, in connection with the services described or referred to in this Agreement.

4. Insurance

- a. The Consultant agrees to procure, pay the entire premium for and maintain throughout the term of this Agreement, insurance in amounts and types specified by the County and as may be mandated and increased from time to time. The Consultant agrees to require that all of its subcontractors, in connection with work performed for the Consultant related to this Agreement, procure, pay the entire premium for and maintain throughout the term of this Agreement insurance in amounts and types equal to that specified by the County for the Consultant. Unless otherwise specified by the County and agreed to by the Consultant, in writing, such insurance shall be as follows:
 - i. **Commercial General Liability** insurance, including contractual liability coverage, in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury and Two Million Dollars (\$2,000,000.00) per occurrence for property damage.
 - ii. **Umbrella Policy:** At the Consultant's option, the Consultant may furnish a minimum One Million (\$1,000,000.00) dollar Umbrella Policy or excess liability policy to meet the Two Million dollar (\$2,000,000.00) General Liability Insurance required
 - iii. **Automobile Liability** insurance (if any vehicles are used by the Consultant in the performance of this Agreement) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per person, per accident, for bodily injury and not less than One Hundred Thousand Dollars (\$100,000.00) for property damage per occurrence.
 - iv. **Worker's Compensation and Employer's Liability** insurance in compliance with all applicable New York State laws and regulations and **Disability Benefits** insurance, if required by law. Consultant shall furnish to the County, prior to its execution of this Agreement, the documentation required by the State of New York Workers' Compensation Board of coverage or exemption from coverage pursuant to §§57 and 220 of the Workers' Compensation Law. In accordance with General Municipal Law §108, this Agreement shall be void and of no effect unless the Consultant shall provide and maintain coverage during the term of this Agreement for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
 - v. **Professional Liability** insurance (Errors and Omissions Insurance), issued in the name of the Consultant and covering any damage arising out of the Consultant's performance of professional services pursuant to this Agreement, in an amount

not less than Two Million Dollars (\$2,000,000.00) on either a per occurrence or claims made coverage basis.

vi. Valuable Papers Insurance: The benefits whereof will be made to accrue expressly to the County, against loss by fire, theft, or damage upon all drawings, plans, and specifications, documents and other materials produced or used under this Agreement. The insurance amount shall be equal to thirty-five percent (35%) of the contract Fee. The County of Suffolk must be named additional insured or Loss Payee.

vii. Insurance Coverage for Work Activity on Water: In the event any work to be done under this Agreement involves activity on waters requiring compliance under the provisions of the Jones Act and/or the United States Longshoremen and Harbor Worker's Act, the Consultant shall furnish evidence of insurance complying with said requirement.

a. Marine Protection and Indemnity Insurance which covers the operations of any and all vessels which are to be used in the performance of the work under this Agreement in any amount not less than One Million Dollars (\$1,000,000.00) for any one accident or occurrence. The Consultant shall not materially reduce this insurance requirement through the use of large deductibles or policy limitations and exclusions unacceptable to the County.

viii. Theft or Pilferage: The Consultant assumes responsibility for all injury to, destruction of, or loss by theft or pilferage of the Consultant's materials, tools, machinery, equipment, appliances, shoring, scaffolding, false and form work, or personal property of its employees, from whatever cause.

b. All policies providing such coverage shall be issued by insurance companies with an A.M. Best rating of A- or better.

c. The Consultant shall furnish to the County Declaration Pages for each such policy of insurance and upon request, a true and certified original copy of each such policy, evidencing compliance with the aforesaid insurance requirements. In the case of commercial general liability insurance, the County of Suffolk shall be named as an additional insured and the Consultant shall furnish a Declaration Page and endorsement page evidencing the County's status as an additional insured on said policy.

d. All such Declaration Pages, certificates and other evidence of insurance shall provide for the County of Suffolk to be notified in writing thirty (30) days prior to any cancellation, nonrenewal or material change in said policies. Such Declaration Pages, certificates, policies and other evidence of insurance and notices shall be mailed to the Department at its address as set forth in this Agreement in the paragraph entitled "Notices and

Contact Persons” or at such other address of which the County shall have given the Consultant notice in writing.

- e. In the event Consultant shall fail to provide the Declaration Pages or certificates of insurance or to maintain any insurance required by this Agreement, the County may, but shall not be required to, obtain such policies and deduct the cost thereof from payments due Consultant under this Agreement or any other agreement between the County and Consultant.
- f. If the Consultant is a town or other municipal corporation and has a self-insurance program under which it acts as a self-insurer for any of such required coverage, it may provide self-funded coverage and certificates or other evidence of such self-insurance in lieu of insurance issued by insurance companies.
(Delete this clause if not applicable)

5. Non-compensatory and Minor Changes

In the event that any change is required due to defect of design or unworkability of details, or because of any other fault or error of the Consultant, no additional compensation shall be paid to the Consultant for making such change, and the obligation to make such change without additional compensation shall continue until Final Payment under this Agreement.

6. Death or Disability of the Consultant

- a. In case of the death or disability of one or more but not all the persons herein referred to as Consultant, the rights and duties of the Consultant shall devolve upon the survivor or survivors of them, who shall be obligated to perform the services required under this Agreement, and the County shall make all payments due to him or them.
- b. In case of the death or disability of all the persons herein referred to as Consultant, all data and records pertaining to the Project shall be delivered within sixty (60) days to the Commissioner or his duly authorized representative. In case of the failure of the Consultant, his successors or personal representatives to make such delivery on demand, then and in that event the representatives of the Consultant shall be liable to the County for any damages it may sustain by reason thereof. Upon the delivery of all such data to the County, the county shall pay to the representatives of the Consultants all amounts due the Consultant, including retained percentages to the date of the death of the last partner.

7. Interchange of Data

All technical data in regard to the Project, whether existing in the office of the Commissioner, or existing in the office of the Consultant, shall be made available to the other party to this Agreement without expense to such other party, as the case may be.

8. Disposition of Plans, Estimates and other Data

At the time of completion of the work, the Consultant shall make available to the Commissioner all survey notes, computations, maps, tracings, and all other documents and data pertaining to the work or to the Project, which material at all times shall be the property of the County. Or in the event that this Agreement is terminated for any reason, then within ten (10) days after such termination, the Consultant shall make available to the Commissioner all the aforementioned data and material. All original tracings and other data furnished to the Commissioner by the Consultant shall bear thereon the endorsement of the Consultant.

9. Damages and Delays

The Consultant agrees that no charges or claim for damages shall be made by him for any delays or hindrances from any cause whatsoever during the progress of any portion of the services specified in this Agreement. Such delays or hindrances, if any, shall be compensated for by an extension of time for such reasonable period as the Commissioner may decide, it being understood, however, that the permitting of the Consultant to proceed to complete any services or any part of them after the date of completion or after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the County of any of its rights herein.

10. Accounting Practices

The Consultant shall maintain full and complete books and records of accounts in accordance with accepted accounting practices and such other records as may be prescribed by the Comptroller of the County of Suffolk. Such books and records shall be retained for a period of three years and shall at all times be available for audit and inspection by the County Comptroller or his duly designated representative, and the Commissioner, or his duly designated representative.

11. Comptroller's Rules and Regulations

For the services funded under this Agreement, the Consultant shall comply with the "Comptrollers Rules and Regulations for Consultant's Agreements" as promulgated by the Suffolk County Department of Audit and Control, and any amendments thereto during the term of this Agreement. The County shall provide the Consultants with a copy of said Rules and Regulations and copies of any amendments made during the term of this Agreement.

12. Minority Business Enterprise

The Consultant shall familiarize himself with, and comply with the Requirements, Terms, and Conditions of the Suffolk County Minority Business Enterprise Program, and if necessary, with the regulations of other funding agencies. The Consultant agrees that the goal established by Suffolk County for minority business enterprise participation in this Project through either subcontracting or

entering into a joint venture with minority business enterprise(s) is a goal of twelve percent (12%).

Information regarding the Requirements, Terms and Conditions of the Suffolk County Minority Business Enterprise Program, and assistance in locating appropriate MBE forms can be obtained from: Laura Conway, M/WBE Officer, Suffolk County Department of Public Works, 335 Yaphank Avenue, Yaphank, New York 11980. (631) 852-4030.

13. Independent Contractor

It is expressly agreed that the Consultant status hereunder is that of an independent contractor. Neither the Consultant, nor any person hired by the Consultant shall be considered employees of the County for any purpose.

14. Severability

It is expressly agreed that if any term or provision of this Agreement, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and every other term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

15. Merger; No Oral Changes

It is expressly agreed that this Agreement represents the entire agreement of the parties, that all previous understandings are merged in this Agreement. No modification of this Agreement shall be valid unless written in the form of an Amendment and executed by both parties.

16. Set-Off Rights

The County shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the County's option to withhold, for the purposes of set-off, any moneys due to the Consultant under this contract up to any amounts due and owing to the County with regard to this contract and/or any other contract with any County department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the County for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The County shall exercise its set-off rights in accordance with normal County practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the County agency, its representatives, or the County Comptroller, and only after legal consultation with the County Attorney.

17. Governing Law

This Agreement shall be governed by the laws of the State of New York. In the event of any dispute or litigation, the venue of any proceeding to determine the

rights and liabilities of the respective parties arising under this Agreement shall be in the New York Supreme Court, Suffolk County; or, in the event of a proceeding in the federal courts, in the District Court for the Eastern District of New York.

18. No Implied Waiver

No waiver shall be inferred from any failure or forbearance of the County to enforce any provision of this Agreement in any particular instance or instances, but the same shall otherwise remain in full force and effect notwithstanding any such failure or forbearance.

19. Conflicts of Interest

- a. The Consultant agrees that it will not during the term of this Agreement engage in any activity that is contrary to and/or in conflict with the goals and purposes of the County.
- b. The Consultant is charged with the duty to disclose to the County the existence of any such adverse interests, whether existing or potential. This duty shall continue so long as the Consultant is retained on behalf of the County. The determination as to whether or when a conflict exists or may potentially exist shall ultimately be made by the County Attorney after full disclosure is obtained.

20. Cooperation on Claims

Each of the parties hereto agrees to render diligently to the other party, without additional compensation, any and all cooperation, that may be required to defend the other party, its employees and designated representatives against any claim, demand or action that may be brought against the other party, its employees or designated representatives in connection with this Agreement.

21. Assignment and Subcontracting

- a. The Consultant shall not assign, transfer, convey, sublet, or otherwise dispose of this Agreement, or any of its right, title or interest therein, or its power to execute the Agreement, or assign all or any portion of the monies that may be due or become due hereunder, to any other person or corporation, without the prior consent in writing of the County, and any attempt to do any of the foregoing without such consent shall be of no effect.
- b. The Consultant shall not enter into subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of the County. Such subcontracts shall be subject to all of the provisions of this Agreement and to such other conditions and provisions as the County may deem necessary, provided, however, that notwithstanding the foregoing, unless otherwise provided in this Agreement, such prior written approval shall not be required for the purchase of articles, supplies, equipment and services which are

incidental to, but necessary for, the performance of the work required under this Agreement. No approval by the County of any subcontract shall provide for the incurrence of any obligation by the County in addition to the total agreed upon price. The Consultant shall be responsible for the performance of any subcontractor for the delivery of service.

22. No Intended Third Party Beneficiaries

This Agreement is entered into solely for the benefit of County and Consultant. No third party shall be deemed a beneficiary of this Agreement, and no third party shall have the right to make any claim or assert any right under this Agreement.

23. Certification as to Relationships

The parties to this Agreement hereby certify that, other than the funds provided in this Agreement and other valid Agreements with the County, there is no known relationship within the third degree of consanguinity, life partner, or business, commercial, economic, or financial relationship between the parties, the signatories to this Agreement, and any partners, members, directors, or shareholders of five percent (5%) (or more) of any party to this Agreement.

24. Execution by Consultant

- a. When the Consultant is a partnership or joint venture, the names of the partners and or parties composing the firm and/or joint venture must be stated in the Statements required under **Exhibit B**, Section 1 of this Agreement.
- b. Where the Consultant is a corporation, the Agreement must be signed with the corporate name, followed by the signature and title of the officer or other authorized person signing the Agreement on behalf of the corporation.
- c. The Consultant warrants that its entry into this Agreement was duly considered and authorized by its organizational body/bodies and pursuant to its/their by-laws and/or internal procedures.

25. Copyrights

The Consultant hereby represents and warrants that Consultant will not infringe upon any copyrighted work or material in accordance with the Federal Copyright Act during performance of this Agreement. Furthermore, the Consultant agrees that it shall protect, indemnify and hold harmless the County and its officers, officials, employees, contractors, agents and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs expenses, suits or actions and reasonable attorney's fees, arising out of the acts or omissions or the negligence of the Consultant in connection with the services described or referred to in this Agreement. The Consultant shall defend the County and its

officers, officials, employees, contractors, agents and other persons in any suit, including appeals, or, at the County's option, pay reasonable attorney's fees for defense of any such suit arising out of the acts or omissions or negligence of the Consultant, its officers, officials, employees, subcontractors, lessees, licensees, invitees or agents, if any, in connection with the services described or referred to in this Agreement.

26. Lawful Hiring of Employees in Connection with Contracts for Construction or Future Construction

This Agreement is subject to the Lawful Hiring of Employees Law of the County of Suffolk, Suffolk County Code Chapter 234, as more fully set forth in the Exhibit entitled "Suffolk County Legislative Requirements." In accordance with this law, Contractor or employer, as the case may be, and any subcontractor or owner, as the case may be, agree to maintain the documentation mandated to be kept by this law on the Construction Site at all times. Contractor or employer, as the case may be, and any subcontractor or owner, as the case may be, further agree that employee sign-in sheets and register/log books shall be kept on the Construction Site at all times during working hours and all covered employees, as defined in the law, shall be required to sign such sign in sheets/register/log books to indicate their presence on the Construction Site during such working hours.

End of Text for Exhibit A

Exhibit B
Suffolk County Legislative Requirements

1. Contractor's/Vendor's Public Disclosure Statement

The Contractor represents and warrants that it has filed with the Comptroller of Suffolk County the verified public disclosure statement required by Suffolk County Administrative Code Article V, Section A5-7 and shall file an update of such statement with the said Comptroller on or before the 31st day of January in each year of this Agreement's duration. The Contractor acknowledges that such filing is a material, contractual and statutory duty and that the failure to file such statement shall constitute a material breach of this Agreement, for which the County shall be entitled, upon a determination that such breach has occurred, to damages, in addition to all other legal remedies, of fifteen percent (15%) of the amount of the Agreement.

Required Form: Suffolk County Form SCEX 22; entitled
"Contractor's/Vendor's Public Disclosure Statement"

2. Living Wage Law

This Agreement is subject to the Living Wage Law of the County of Suffolk. The law requires that, unless specific exemptions apply all employers (as defined) under service contracts and recipients of County financial assistance, (as defined) shall provide payment of a minimum wage to employees as set forth in the Living Wage Law. Such rate shall be adjusted annually pursuant to the terms of the Suffolk County Living Wage Law of the County of Suffolk. Under the provisions of the Living Wage Law, the County shall have the authority, under appropriate circumstances, to terminate this Agreement and to seek other remedies as set forth therein, for violations of this Law.

The Contractor represents and warrants that it has read and shall comply with the requirements of Suffolk County Code Chapter 347, Suffolk County Local Law No. 12-2001, the Living Wage Law.

Required Forms: Suffolk County Living Wage Form LW-1; entitled "Suffolk County Department of Labor – Living Wage Unit Notice of Application for County Compensation.(Contract)"

Suffolk County Living Wage Form LW-38;
entitled "Suffolk County Department of Labor – Living
Wage Unit Living Wage Certification/Declaration – Subject
To Audit"

**3. Use of County Resources to Interfere with Collective Bargaining Activities
Local Law No. 26-2003**

The Contractor represents and warrants that it has read and is familiar with the requirements of Chapter 466, Article 1 of the Suffolk County Local Laws, "Use of County Resources to Interfere with Collective Bargaining Activities". County Contractors (as defined) shall comply with all requirements of Local Law No. 26-2003 including the following prohibitions:

- a. The Contractor shall not use County funds to assist, promote, or deter union organizing.
- b. No County funds shall be used to reimburse the Contractor for any costs incurred to assist, promote, or deter union organizing.
- c. The County of Suffolk shall not use County funds to assist, promote, or deter union organizing.
- d. No employer shall use County property to hold a meeting with employees or supervisors if the purpose of such meeting is to assist, promote, or deter union organizing.

If Contractor services are performed on County property the Contractor must adopt a reasonable access agreement, a neutrality agreement, fair communication agreement, nonintimidation agreement and a majority authorization card agreement.

If Contractor services are for the provision of human services and such services are not to be performed on County property, the Contractor must adopt, at the least, a neutrality agreement.

Under the provisions of Local Law No. 26-2003, the County shall have the authority, under appropriate circumstances, to terminate this Agreement and to seek other remedies as set forth therein, for violations of this Law.

Required Form: Suffolk County Labor Law Form DOL-LO1; entitled "Suffolk County Department of Labor – Labor Mediation Unit Union Organizing Certification/Declaration – Subject to Audit"

4. Lawful Hiring of Employees Law

This Agreement is subject to the Lawful Hiring of Employees Law of the County of Suffolk (Local Law 52-2006). It provides that all covered employers, (as defined), and the owners thereof, as the case may be, that are recipients of compensation from the County through any grant, loan, subsidy, funding, appropriation, payment, tax incentive, contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or an awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit a completed sworn affidavit (under penalty of perjury), the form of which is attached, certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees (as defined) and with respect to the alien and nationality status of the owners thereof. The affidavit shall be executed by an authorized representative of the covered employer or owner, as

the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement with the County; and shall be made available to the public upon request.

All contractors and subcontractors (as defined) of covered employers, and the owners thereof, as the case may be, that are assigned to perform work in connection with a County contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit to the covered employer a completed sworn affidavit (under penalty of perjury), the form of which is attached, certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees and with respect to the alien and nationality status of the owners thereof, as the case may be. The affidavit shall be executed by an authorized representative of the contractor, subcontractor, or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement between the covered employer and the County; and shall be made available to the public upon request.

An updated affidavit shall be submitted by each such employer, owner, contractor and subcontractor no later than January 1 of each year for the duration of any contract and upon the renewal or amendment of the contract, and whenever a new contractor or subcontractor is hired under the terms of the contract.

The Contractor acknowledges that such filings are a material, contractual and statutory duty and that the failure to file any such statement shall constitute a material breach of this agreement.

Under the provisions of the Lawful Hiring of Employees Law, the County shall have the authority to terminate this Agreement for violations of this Law and to seek other remedies available under the law.

The Contractor represents and warrants that it has read, is in compliance with, and shall comply with the requirements of Suffolk County Code Chapter 234, Suffolk County Local Law No. 52-2006, the Lawful Hiring of Employees Law.

Required Forms: Suffolk County Lawful Hiring of Employees Law Form LHE-1; entitled "Suffolk County Department of Labor --"Notice Of Application To Certify Compliance With Federal Law (8 U.S.C. SECTION 1324a) With Respect To Lawful Hiring of Employees"

"Affidavit Of Compliance With The Requirements Of 8 U.S.C. Section 1324a With Respect To Lawful Hiring Of Employees" Form LHE-2.

5. **Gratuities**

The Contractor represents and warrants that it has not offered or given any

gratuity to any official, employee or agent of Suffolk County or New York State or of any political party, with the purpose or intent of securing an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement, and that the signer of this Agreement has read and is familiar with the provisions of Local Law No. 32-1980 of Suffolk County (Chapter 386 of the Suffolk County Code).

6. Prohibition Against Contracting with Corporations that Reincorporate Overseas

The Contractor represents that it is in compliance with Suffolk County Administrative Code Article IV, §§A4-13 and A4-14, found in Suffolk County Local Law No. 20-2004, entitled "A Local Law To Amend Local Law No. 5-1993, To Prohibit The County of Suffolk From Contracting With Corporations That Reincorporate Overseas." Such law provides that no contract for consulting services or goods and services shall be awarded by the County to a business previously incorporated within the U.S.A. that has reincorporated outside the U.S.A.

7. Child Sexual Abuse Reporting Policy

The Contractor agrees to comply with Chapter 577, Article IV, of the Suffolk County Code, entitled "Child Sexual Abuse Reporting Policy", as now in effect or amended hereafter or of any other Suffolk County Local Law that may become applicable during the term of this Agreement with regard to child sexual abuse reporting policy.

8. Non Responsible Bidder

The Contractor represents and warrants that it has read and is familiar with the provisions of Suffolk County Code Chapter 143, Article II, §§143-5 through 143-9. Upon signing this Agreement the Contractor certifies that he, she, it, or they have not been convicted of a criminal offense within the last ten (10) years. The term "conviction" shall mean a finding of guilty after a trial or a plea of guilty to an offense covered under the provision of Section 143-5 of the Suffolk County Code under "Nonresponsible Bidder."

9. Use of Funds in Prosecution of Civil Actions Prohibited

Pursuant to the Suffolk County Code Section §590-3, the Contractor represents that it shall not use any of the moneys received under this Agreement, either directly or indirectly, in connection with the prosecution of any civil action against the County of Suffolk or any of its programs, funded by the County, in part or in whole, in any jurisdiction or any judicial or administrative forum.

10. Suffolk County Local Laws

Suffolk County Local Laws, Rules and Regulations can be found on the Suffolk County web site at [www.co.suffolk](http://www.co.suffolk.ny.us)<<http://www.co.suffolk.ny.us>>. Click on "Laws of Suffolk County" under "Suffolk County Links."

End of Text for Legislative Requirements

Exhibit C
Payment Terms

1. General Payment Terms

- a. Method of Payment: The Consultant agrees to accept a one-time payment, in an amount not to exceed the Total Cost of Agreement, \$xxxxx upon completion of work, labor and services contemplated in this Agreement. The Total Cost of Agreement shall include all travel and other expenses of every nature and kind whatsoever, regardless of the total amount of time expended or expenses actually incurred, except for increases due to change orders or amendments to this Agreement, as mutually agreed in writing by both parties.
- b. Procedure for Payment: The Consultant shall prepare and present a claim form supplied by the County and approved for payment by the County ("Suffolk County Payment Voucher"), as well as any other documentation required by the County in order to receive payment. Claims shall comply with all applicable Federal, State, and Local laws and regulations. Payment by the County will be made within thirty (30) days after approval by the Comptroller of the County of Suffolk and all other requisite County officials.

2. Schedule of Payments:

The schedule of Payments totaling \$xxxxx to the Consultant shall be in accordance with Exhibit "G" of this Agreement entitled "Schedule of Payments," but may be subject to change as mutually agreed in writing by both parties.

3. Taxes Excluded

The charges payable to the Consultant under this Agreement do not include federal, state and local taxes, the County being a municipality is exempt from payment of such taxes. The Consultant shall pay any taxes and/or royalties incurred in connection with the services under the Agreement.

4. Total Fee

The Consultant agrees that it shall be entitled to no more than the total fee set forth in this Agreement, xxxxxxxx dollars (\$xxxxx), for the completion of all work, labor and services contemplated in this Agreement, except as provided in Section 5 below.

5. Additional Services

- a. When previously authorized in writing by the Commissioner of Public Works, the Consultant shall furnish, or obtain from others, such additional services as deemed necessary.
- b. The County will pay the Consultant for duly authorized additional services of sub-consultants at a rate equal to the actual amount billed to the

Consultant, plus five percent (5%) of billing, plus approved reimbursable expenses in connection therewith. Sub-consultants shall provide billing documentation in the same manner as required by the Consultant including time cards and wage rate schedules.

- c. The total cost of this contract, \$xxxxx, shall not be exceeded without prior written approval, and only when additional fees are authorized by the Commissioner of Public Works. Refer to Article 7 below "Agreement Subject to Appropriation of Funds".

6. Acceptance of Final Payment

The acceptance by the Consultant or by any person claiming under the Consultant, of any payment made on the final approved Suffolk County Payment Voucher under this Agreement shall operate as, and shall be a release to, the County from all claims and liability to the Consultant, its successors, legal representatives and assigns, for services rendered under this Agreement.

7. Agreement Subject to Appropriation of Funds

This Agreement is subject to the amount of funds appropriated and any subsequent modifications thereof by the Suffolk County Legislature, and no liability shall be incurred by the County under this Agreement beyond the amount of funds appropriated by the Legislature for the Services covered by this Agreement.

8. Audit and Adjustment

All payments made under this Agreement are subject to audit and adjustment by the Suffolk County Comptroller, or other authorized personnel, pursuant to Article V of the Suffolk County Charter.

End of Text for Exhibit C

Exhibit D
Notices and Contact Persons

1. Notices Relating to Payments, Reports, Insurance, or Other Submissions

Any communication, notice, claim for payment, report, insurance, or other submission necessary or required to be made by the parties regarding this Agreement shall be in writing and shall be given to the County or the Consultant or their designated representative at the following addresses or at such other address that may be specified in writing by the parties and must be delivered as follows:

For the Department:
By Regular or Certified Mail in Postpaid Envelope or by Courier Service or by Fax or by E-Mail

Suffolk County Department of Public Works
335 Yaphank Avenue
Yaphank, New York 11980
Att. Ben Wright, P.E.

For the Consultant:
By Regular or Certified Mail in Postpaid Envelope or by Courier Service or by Fax or by E-Mail

At the address set forth on page one of this Agreement, attention of the person who executed this Agreement or such other designee as the parties may agree in writing.

2. Notices Relating to Termination and/or Litigation

In the event the Consultant receives a notice or claim or becomes a party (plaintiff, petitioner, defendant, respondent, third party complainant, third party defendant) to a lawsuit or any legal proceeding related to this Agreement, the Consultant shall immediately deliver to the County Attorney, at the address set forth below, copies of all papers filed by or against the Consultant.

Any communication or notice regarding termination shall be in writing and shall be given to the County or the Consultant or their designated representative at the following addresses or at such other addresses that may be specified in writing by the parties and must be delivered as follows:

For the County:
By Regular or Certified Mail in Postpaid Envelope or by Courier Service or by Fax or by E-Mail

Commissioner of the Department of Public Works
335 Yaphank Avenue
Yaphank, New York 11980

and

Christine Malafi, County Attorney
Suffolk County Department of Law
H. Lee Dennison Building
100 Veterans Memorial Highway
Hauppauge, New York 11788

**For Consultant:
By Regular or Certified Mail in Postpaid Envelope or by
Courier Service or by Fax or by E-Mail**

At the address set forth on page one of this Agreement, attention to the person who executed this Agreement or such other designee as the parties may agree in writing.

3. Notices sent shall be deemed delivered on the date they are mailed or deposited with a nationally recognized overnight courier service.
4. Each party shall give prompt written notice to the other party of the appointment of successor(s) to the designated contact person(s) or his or her designated successor(s).

End of Text for Exhibit D

Exhibit E
Description of Services

1. **Shall be as set forth in the Request for Proposal for this Project and Consultants Proposal, on file in the Department of Public Works the provisions of which are made apart hereof by reference, as if the same were recited herein.**

End of Text for Exhibit E

Exhibit F
Consultant's Proposal

The Consultant's technical and cost proposals of xxxxx, are on file in the Department of Public Works office, 335 Yaphank Avenue, Yaphank, New York.

Exhibit G

Schedule of Payments

| Task | Description | Fee |
|--------------|---------------------|---------------|
| A | | |
| B | | |
| TOTAL | Lump Sum Fee | \$xxxx |

10-16-08 Rocky Point draft agreement

APPENDIX "E"

Suffolk County Affirmative Action Plan

**MINORITY/WOMEN BUSINESS ENTERPRISE
COUNTY OF SUFFOLK - DEPARTMENT OF PUBLIC WORKS**

**SUFFOLK COUNTY, NEW YORK
MINORITY/WOMEN BUSINESS ENTERPRISE
REQUIREMENTS**

**AFFIRMATIVE ACTION PACKAGE
COVERING
EQUAL EMPLOYMENT OPPORTUNITY
ON SUFFOLK COUNTY CONSTRUCTION PROJECTS,
INFORMATION, FORMS AND INSTRUCTIONS
FOR BIDDERS**

MINORITY/WOMEN BUSINESS ENTERPRISE
COUNTY OF SUFFOLK - DEPARTMENT OF PUBLIC WORKS

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MINORITY/WOMEN BUSINESS ENTERPRISE
COUNTY OF SUFFOLK - DEPARTMENT OF PUBLIC WORKS

INTRODUCTION

Federal Executive Order No. 11625 established a public policy to assure the opportunity for full participation of socially and economically disadvantaged groups in our free enterprise system.

Federal Executive Order 11246, as amended, prohibits job discrimination because of race, color, religion, sex or national origin and requires affirmative action to ensure equality of opportunity in all aspects of employment.

Title VI of the Federal Civil Rights Act of 1964, as amended in 1972, provides that "No persons in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance."

New York State provisions for equal employment opportunities for minorities and women shall be in accordance with Section 312 of the executive law.

Accordingly, Suffolk County has developed a Minority/Women Business Enterprise Program with the following objectives:

1. To identify Minority/Women Business Enterprise capable of entering the County's construction program and/or procurement of goods and services program.
2. To provide maximum realistic opportunity for Minority/Women Business Enterprises to compete in the County's program.

All County Contractors are required to take positive steps, consistent with sound procurement practices and applicable law, to utilize Minority/Women Business Enterprises to the maximum extent.

MINORITY/WOMEN BUSINESS REGISTRY

In accordance with the County's Minority Business Enterprise Program, on all County construction projects, all prime Contractors are required to list prior to award of contract all Minority Business Enterprise(s) that are proposed to be utilized in the performance of the project.

The Affirmative Action Office maintains a Minority/Women Business Registry of minority/women owned firms which may be capable of providing the goods and services or may be able to perform the construction work required for performance of the contract. Prime contractors or subcontractors, who are interested in identifying minority owned firms with which they may enter into business arrangements, are invited to utilize the County's Minority/Women Business Registry by contacting the Affirmative Action Office and specifying the products, services and/or trades that are needed.

MINORITY/WOMEN BUSINESS ENTERPRISE
COUNTY OF SUFFOLK - DEPARTMENT OF PUBLIC WORKS

AFFIRMATIVE ACTIONS TO BE PERFORMED BY THE CONTRACTOR

For the purpose of expanding opportunities for Minority/Women Business Enterprises, all bidders will undertake the following affirmative actions:

1. Fully comply with the "Requirements, Terms and Conditions" as set forth in the Appendix.
2. Detach, complete and submit with bid the "Affidavit and Certification" form.
3. The apparent low bidder is required to prepare and submit to the M/WBE Officer, within fifteen (15) business days after notification as lowest responsible bidder, a "Consultants/Contractors Detailed MBE/WBE Utilization Plan."

MINORITY/WOMEN BUSINESS ENTERPRISE
COUNTY OF SUFFOLK - DEPARTMENT OF PUBLIC WORKS

APPENDIX

Requirements, Terms and Conditions

1. The goal established by Suffolk County for minority business enterprise participation in all projects through either subcontracting or entering into a joint venture with minority/women business enterprises is a goal of twelve percent (12%).
 - a. Minority Business Enterprise is defined as a business enterprise that is owned or controlled (i.e. having more than 50% of the share of each class of stock or interest and receiving 50% of the net profits or losses) by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or similar cause. Such persons include, but are not limited to, Blacks (not of Hispanic origin), Hispanics, Asians, Pacific Islanders, American Indians and Alaskan natives.
 - b. Women Business Enterprise is defined as a business enterprise that is owned and/or controlled (i.e. having more than 51% of the share of each class of stock or interest and receiving 51% of the net profits or losses) by a woman.
2. A bidder who fails or refuses to comply with the "Requirements, Terms and Conditions" of this Appendix shall not be deemed a responsive bidder and will not be awarded the contract.
3. The bidder's commitment herein is to meet the minority/women business enterprise objectives and is not intended and shall not be used to discriminate against any qualified company or group of companies.
4. The bidder's commitment to a specific goal for minority/women business enterprise utilization as established by Suffolk County shall constitute a commitment to make every good faith effort to meet such goal by subcontracting to and/or entering into purchase of service agreements with, and/or entering into a joint venture with minority/women business firms.
5. The amount of minority participation will be determined by the dollar value of the work subcontracted to minority/women business enterprise firms as compared to the total value of all work performed under this contract and/or by the percentage of the project costs, as set forth in Paragraph 6 of this Appendix, which the parties agree will be shared by a minority/women business enterprise firm where a joint venture is entered into for the rendering of services, procurements or construction of the project.

MINORITY/WOMEN BUSINESS ENTERPRISE
COUNTY OF SUFFOLK - DEPARTMENT OF PUBLIC WORKS

6. The degree of goal attainment by minority-majority joint ventures and minority/women Contractors will be calculated as follows:
 - a. A joint venture consisting of minority and majority business enterprises, functioning as a prime Contractor, will be credited with minority participation on the basis of percentage of profit to accrue to the M/WBE. For example, if a minority-majority joint venture proposes to perform 50% of a project quoted at \$500,000 and 50% of the profits are to accrue to the minority partner in the joint venture, minority participation will be credited as 25% of the work or \$125,000.
 - b. M/WBE Contractors will be credited with minority participation for that portion of the contract which they perform and that portion subcontracted to minority firms. For example, if an M/WBE Contractor proposes to perform a project quoted at \$500,000 and subcontracts 25% to a majority firm and 25% to a minority firm, minority participation will be credited as 75% or \$375,000.
7. A maximum of five percent (5%) of the twelve percent (12%) MBE goal will be allowed for Women Business Enterprise (WBE) subcontractor.
8. The Contractor shall receive credit for use of M/WBE suppliers as follows:
 - One hundred percent (100%) of the goal for M/WBE suppliers who are wholesalers warehousing the goods supplied and are manufacturers' representatives.
 - Fifty percent (50%) of the goal for M/WBE suppliers who are wholesalers warehousing the goods supplied and are not manufacturers' representatives.
 - Three percent (3%) of the goal for non-manufacturing supplier (M/WBE).
9. Price alone will not be an acceptable basis for rejecting M/WBE bids unless it can be shown that no reasonable price can be obtained from a M/WBE.
10. If the bid of the apparent low bidder does not meet the established goal, said bidder must submit documentation indicating that it has made every good faith effort to meet such goal, which might include, but not be limited to:
 - attendance at the pre-bid meeting;
 - advertisement in trade association newsletters and minority-owned media for specific sub-bids that would be at least equal the percentage goal for M/WBE utilization specified for the project;
 - direct negotiation with M/WBE's for specific sub-bids;
 - a detailed statement of the efforts made to negotiate with M/WBE's including at a minimum: the names, addresses and telephone numbers of M/WBE's who were contacted; a description of the information provided to M/WBE's regarding the plans and specifications for portions of the work to be performed; and a detailed

MINORITY/WOMEN BUSINESS ENTERPRISE
COUNTY OF SUFFOLK - DEPARTMENT OF PUBLIC WORKS

statement of the reasons why additional prospective agreements with M/WBE's, if needed to meet the stated goal, were not reached;

- a detailed statement of the efforts made to select portions of the work proposed to be performed by M/WBE's in order to increase the likelihood of achieving the stated goal;
- a detailed statement for each M/WBE contacted of the reasons for the bidder's conclusion that the firm is not qualified or unavailable.

A bid which fails to meet the established goal or to show meaningful good faith efforts to that end will be found non-responsive.

11. Where a subcontract or order held by an M/WBE or minority/non-minority Joint Venture is terminated, the Contractor shall give prompt notice thereof to the Affirmative Action Officer and shall make every reasonable effort to propose and enter into an alternative subcontract or subcontracts for the same work to be performed or an alternative order or orders for the same materials to be furnished by another qualified M/WBE or M/WBE's for a price or prices totaling not less than the price of the terminated subcontract or order. Satisfactory evidence shall be furnished in a timely manner to the County.
12. The County, through its Affirmative Action Officer, will conduct periodic inspection of the Contractor's minority/women business enterprise involvement efforts during performance of this contract. Such inspections will include, but not be limited to, the Contractor's monthly statement of monies received from the County and the portion of said monies that was paid to the minority business enterprise(s) as evidenced by affirmation of the minority/women's business enterprise(s) which the Contractor hereby agrees to supply each month during the term of its contract with the County. Where the Affirmative Action Officer finds that the Contractor has failed to comply with the requirements of this Appendix, said Officer will inform the County Attorney who will immediately notify the Contractor to take corrective action.

Where the Contractor has been found to have failed to exert every good faith effort as set forth in Paragraph 6 above, to involve minority/women business enterprise in the work provided, the County may declare that the contract is terminated by reason of the Contractor's default, and/or may declare that the Contractor is ineligible to receive further County funds, whether as a Contractor, subcontractor, or as a consultant, for a period of up to three years.

13. The Contractor will keep records and documents for three years following performance of this contract to indicate compliance with this Appendix. These records and documents, or copies thereof, will be made available at reasonable times and places for inspection by any authorized representatives of the County and will be submitted to the County upon request together with any other compliance information which such representative may require.

MINORITY/WOMEN BUSINESS ENTERPRISE
COUNTY OF SUFFOLK - DEPARTMENT OF PUBLIC WORKS

14. Bidders and Contractors are bound by all the "Requirements, Terms and Conditions" of this Appendix.
15. Nothing in this Appendix shall be interpreted to diminish the present contract compliance review.

Submissions

1. Affidavit and Certification

Bid documents contain information regarding Suffolk County's requirements concerning minority/women business participation. Potential bidders at the time of bid submission are required to submit only the "Affidavit and Certification" form.

2. Consultants/Contractors Detailed MBE/WBE Utilization Plan

The lowest responsible bidder, as determined by the Owner, must submit a Consultants/Contractors Detailed MBE/WBE Utilization Plan prior to award. The Utilization Plan must include:

- a. Name, address and telephone number of the M/WBE firm that have committed to perform work in connection with the proposed Suffolk County contract as well as any such enterprise which the contractor intends to use in connection with the contractor's performance of the proposed Suffolk County contract.
- b. Description of the work to be performed/materials to be supplied by the M/WBE firm.
- c. The estimated or, if known, actual dollar amounts to be paid to the M/WBE firm.

If selected as the lowest responsible bidder, the contractor shall submit periodic reports relating to the operation and implementation of the submitted Utilization Plan, including a final report at the end of the contract term. The compliance reports shall include, but not be limited to:

- a. The name, address and telephone number of each certified women and minority-owned business enterprise the contractor is using or intends to use to comply with the Utilization Plan.

MINORITY/WOMEN BUSINESS ENTERPRISE
COUNTY OF SUFFOLK - DEPARTMENT OF PUBLIC WORKS

- b. A brief description of the scope of work to be performed for the contractor by each certified women and minority-owned business enterprise and the scheduled dates for performance.
- c. A statement of whether the contractor has a written agreement with each certified women and minority-owned business enterprise and, if requested, copies of such agreements.
- d. The actual cost of the scope of work to be performed by each certified women and minority-owned business enterprise.
- e. Documentation of the actual amounts of any payments made by the contractor to each certified women and minority-owned business enterprise as of the submission date of the compliance report.

In the event the contractor's non-compliance with the non-discrimination clauses and M/WBE requirements of any County contract, such contract may be cancelled, terminated or suspended in whole or in part.

Informal Administrative Review

1. Failure to comply with the terms of this M/WBE program shall be a factor in determining whether a contractor is the lowest responsible bidder. Upon request, a contractor who is not awarded a contract may be notified of the grounds for the non-award of the contract.
2. Failure to comply with the non-discrimination clauses and M/WBE requirements of any County contract shall be a factor in determining whether a contractor is in default of such contract. Upon request, a contractor who is declared in default of a contract may be notified of the grounds for notice of default on such contract.

MINORITY/WOMEN BUSINESS ENTERPRISE
COUNTY OF SUFFOLK - DEPARTMENT OF PUBLIC WORKS

AFFIDAVIT AND CERTIFICATION

STATE OF NEW YORK)
COUNTY OF SUFFOLK)

_____, being duly sworn, deposes and says that he resides at _____.

That the bidder hereby agrees that every good faith effort shall be made to solicit and utilize certified women/minority businesses on this project through either subcontracting to and/or entering into purchase or service agreements. That the undersigned has recognized and acknowledged that the statements herein are being given under oath and any material misrepresentation will be grounds for terminating any contract which may be awarded in reliance hereon. That this affidavit and statements herein are made knowing that the truth of the contents hereof will be relied upon.

Sworn to before me this

____ day of _____, 20__

Notary Public

STATE OF NEW YORK)
COUNTY OF SUFFOLK)

One the ____ day of _____, 20 __, before me personally came _____ to me known and known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged that he executed same.

Notary Public

BIDDER WHO FAILS OR REFUSES TO COMPLETE AND RETURN THIS AFFIDAVIT SHALL NOT BE DEEMED A RESPONSIVE BIDDER AND WILL NOT BE ACKNOWLEDGED.

DEPARTMENT OF PUBLIC WORKS

CONSULTANTS/CONTRACTORS DETAILED MBE/WBE UTILIZATION PLAN

Consultant/Contractor: _____ Project Name/CP Number: _____
 Address: _____ Total Bid Price: \$ _____
 MBE/WBE Participation: \$ _____

Contract Description _____ Dollar Value of Each
 Name, Address & Telephone (By Item)
 of MBE/WBE Firm Work to be done/materials to be
 of MBE/WBE Firm Supplied by MBE/WBE Firm
 (Include Item Numbers)

| OFFICE OF MINORITY/WOMEN ENTERPRISE USE ONLY | | COMMENTS |
|--|----------------------|----------------------------------|
| U.P. APPROVED BY: | U.P. DISAPPROVED BY: | |
| SUBTOTALS | | |
| MBE: | | |
| WBE: | | |
| Signature of Contractor/Owner _____ | | Telephone # _____ Fax # _____ |

MINORITY/WOMEN BUSINESS ENTERPRISE
COUNTY OF SUFFOLK - DEPARTMENT OF PUBLIC WORKS

The following individuals are available to assist prospective bidders in meeting the requirements of the Minority/Women Business Enterprise Program:

MEL GUADALUPE, DIRECTOR
OFFICE OF MINORITY AFFAIRS
SUFFOLK COUNTY EXECUTIVE OFFICE
P. O. BOX 6100, HAUPPAUGE, NEW YORK 11788
(631) 853-4738

LAURA CONWAY, CPA, CHIEF ACCOUNTANT
SUFFOLK COUNTY DEPARTMENT OF PUBLIC WORKS
335 YAPHANK AVENUE
YAPHANK, NEW YORK 11980
(631) 852-4030