

Resolution 6A

Resolution offered by Mayor Tenke and seconded by \_\_\_\_\_

**BE IT RESOLVED**, that the City Council hereby authorizes the Mayor to enter into an agreement with Sahn Ward Coschignano, PLLC, to represent the City, as special counsel, in the matter of Epstein/Silverman v. City of Glen Cove & Livingston Development Corporation et al, in an appeal, in the amount of \$190 per hour for all attorneys and \$80 per hour for all paralegal/paraprofessionals, with aggregate cap on hourly fees of \$30,000, exclusive of costs and disbursements.

Funding: A142055492

Resolution 6B

Resolution offered by Mayor Tenke and seconded by \_\_\_\_\_

**BE IT RESOLVED**, that the City Council hereby authorizes the Mayor to enter into an agreement with Livingston Development Corp., for the reimbursement/refund, to the City, of fifty percent (50%) of any legal fees and expenses incurred, which are associated with the litigation invoiced to the City from Sahn Ward Coschignano, PLLC, in regard to an Article 78 proceeding in the action entitled Epstein/Silverman v. City of Glen Cove & Livingston Development Corporation et al. in the Supreme Court of the State of New York Appellate Division Second Department.

Resolution 6C

Resolution offered by Mayor Tenke and seconded by \_\_\_\_\_

**RESOLUTION AUTHORIZING THE ADOPTION OF CERTAIN BUDGET  
AMENDMENTS TO THE FISCAL YEAR 2019**

**WHEREAS**, the City Budget is the financial document that funds the many services provided by local city government; and

**WHEREAS**, the City's fiscal year begins on January 1st of each year and the City Council must adopt a final City Budget by the fourth Tuesday of October for the next budget year; and

**WHEREAS**, adequate preparation, review and eventual adoption of the annual City Budget is an open process that lasts several weeks; and

**WHEREAS**, the Mayor has submitted a budget to the city council for the Fiscal year 2019; and

**WHEREAS**, the City has conducted public hearing on the budget for the Fiscal Year 2019 budget; and

**WHEREAS**, the Mayor and City Council after review and preparation of the Fiscal Year 2019 budget, would like to amend certain sections of the budget submitted by substituting the following attached errata sheet; and

**WHEREAS**, the City Council would like to adopt the attached errata sheet and incorporate same in the into the 2019 Fiscal year budget; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Glen Cove City Council as follows:

1. The attached errata sheet shall amend certain provisions of the budget previously submitted therein and all prior errata sheets or amendments to the budget shall be discarded; and
2. The attached errata sheet shall be made part of the budget upon the adoption of the Fiscal Year 2019 budget.

Resolution 6D

Resolution offered by Mayor Tenke and seconded by \_\_\_\_\_

**BE IT RESOLVED**, that the City Council hereby approves the 2019 Budget.

Resolution 6E

Resolution offered by Mayor Tenke and seconded by \_\_\_\_\_

**WHEREAS**, that the City of Glen Cove Department of Public Works (“DPW”) released a publicly advertised Request for Proposals (RFP) to solicit proposals for professional design, engineering, and construction inspection services for the Rehabilitation of East Island Bridge Tidal Gates and Dosoris Pond Project (the “Project”); and

**WHEREAS**, the City entered into and executed on May 10, 2018 an Agreement with the New York State Department of Environmental Conservation (NYSDEC) for

financial assistance for the Project as authorized by Glen Cove City Council Resolution 6H on June 27, 2017; and

**WHEREAS**, the Project is funded through a NYSDEC Water Quality Improvement Project Program grant, with \$695,160.00 in State funding and approximately \$305,000 in local City match; and

**WHEREAS**, after evaluation of five (5) proposals submitted by qualified responders and interviews held with two (2) short-listed firms, Lockwood, Kessler & Bartlett, Inc. ("LKB") was determined to be the most qualified firm; and

**WHEREAS**, the proposal of LKB has a not to exceed value of \$180,000; and

**WHEREAS**, with due deliberation and consideration the Project Selection Committee, with the concurrence of the City Council, has determined and concluded it is in the best interests of the City to accept their proposal; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council is hereby authorized to accept the proposal of Lockwood, Kessler & Bartlett, Inc. having an office at One Aerial Way, Syosset, NY 11791 and for the Mayor to execute a professional services agreement with LKB not to exceed \$180,000.

Funding: H5110-45710-1838

Resolution 6F

Resolution offered by Mayor Tenke and seconded by \_\_\_\_\_

**BE IT RESOLVED**, that the City Council hereby authorizes Mayor to accept the proposal of and enter into contract with LiRo Engineers, Inc., for professional engineering services to develop details & assemble appropriate specifications and information related to road openings/permits and concrete construction work in the City ROW, in the amount of \$1,800.

Funding: A5110-54324

Resolution 6G

Resolution offered by Mayor Tenke and seconded by \_\_\_\_\_

**BE IT RESOLVED**, that the City Council hereby the City Attorney to settle the following claim in full and final settlement:

<u>Name</u>	<u>Claim Number</u>	<u>Amount</u>
Allstate Insurance Company a/s/o Ronald Evans	18-2629	\$8,949.01

Resolution 6H

Resolution offered by Mayor Tenke and seconded by \_\_\_\_\_

**BE IT RESOLVED**, that the City Council hereby authorizes the Glen Cove Education Foundation to erect lawn signs October 10, 2018 through October 29, 2018, to advertise “1<sup>st</sup> Annual Tag Sale & Day of Fun”.

Resolution 6I

Resolution offered by Mayor Tenke and seconded by \_\_\_\_\_

**BE IT RESOLVED**, that the City Council hereby authorizes the Glen Cove Chamber of Commerce to erect lawn signs October 21, 2018 through November 4, 2018, to advertise their annual “Gala”.

Resolution 6J

Resolution offered by Mayor Tenke and seconded by \_\_\_\_\_

**BE IT RESOLVED**, that the City Council hereby authorizes North Country Reform Temple to erect lawn signs, November 4, 2018 through November 19, 2018, to advertise their annual “Holiday Boutique”.

Resolution offered by Mayor Tenke and seconded by \_\_\_\_\_

**BE IT RESOLVED**, that the City Council hereby authorizes the City of Glen Cove to erect lawn signs November 19, 2018 through December 3, 2018, to advertise “Merry Tree Festival, Holiday Marketplace and Tree Lighting”.

## **AGREEMENT**

THIS AGREEMENT (the "Agreement") is made and entered into this \_\_\_\_ day of October, 2018 between Livingston Development Corp 162-20 77th Road, Flushing, New York 11366 New York Corporation 135 Glen Cove Ave Corp. 162-20 77th Road Flushing, New York 11366, a New York Corporation herein collectively referenced as "Livingston" and the City of Glen Cove, a municipal corporation at 9 Glen Street, Glen Cove, New York 11542 herein referenced as "City".

### **WITNESSETH**

**WHEREAS**, The parties to this agreement are the Respondent's in an Article 78 proceeding in the action entitled **Epstein/Silverman v. Glen Cove & Livingston et al** Index No:00488/2016 in the Supreme Court of Nassau County; and in the Supreme Court of The State of New York Appellate Division Second Department under Index No 11793/2017; and

**WHEREAS**, Epstein/Silverman have filed a Notice of Appeal from the Order of the Hon. George Peck of Supreme Court of Nassau County and a motion to enlarge the time to perfect an appeal in the Supreme Court of The State of New York Appellate Division Second Department under Index No 11793/2017; and

**WHEREAS**, the City Council previously approved and adopted a resolution appointing Sahn Ward Coschignano PLLC as special counsel for the litigation against the City of Glen Cove and its agencies herein collectively referenced as the "Firm", and

**WHEREAS**, simultaneously with the date of this Agreement, the City has retained Sahn Ward Coschignano PLLC as Special Appellate Counsel herein to oppose the motion to enlarge the time to perfect an appeal and to file a Respondent's brief in the matter, if necessary, for the sums provided in the agreement; ( see Exhibit "A") and

**WHEREAS**, the City of Glen Cove's retainer agreement with Sahn Ward Coschignano PLLC provides an aggregate cap of the City's legal expenses for this appeal at \$30,000.00 exclusive of costs and disbursements

**WHEREAS**, Livingston has agreed to refund the City FIFTY PERCENT (50 %) of any legal fees and costs incurred and which are associated with the litigation and invoiced to the City from the "Firm" as a result of the Appellate services or litigation incurred herein; and

**WHEREAS**, the Parties desire to enter into this Agreement to clarify the terms and conditions governing Livingston's reimbursement of the City's reasonable legal costs and expenses associated with the appeal/ litigation herein.

**NOW, THEREFORE**, in consideration of the recitals, the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Livingston agrees to reimburse to the City FIFTY PERCENT( 50%) of all legal fees, costs and expenses incurred which are associated with the invoices submitted to the City by the "Firm" herein as required by the retainer agreement for the appeal in this matter which annexed as **Exhibit "A"**

2. The parties agree that this reimbursement agreement shall in no way create an attorney- client relationship between the parties. The parties further agree that they have been advised of the hazards of litigation and no representation is made by the City or any parties to this agreement, express or implied concerning the possible outcome therein. The parties agree that nothing contained herein shall require the City of Glen Cove to take any action in the matter other than to represent the City of Glen Cove and its agencies, which are the subject to this litigation.

3. The City of Glen Cove shall present Livingston with invoices for reimbursement upon receipt from the "Firm" herein. Livingston agrees that all invoices for reimbursement shall be paid to the City of Glen Cove within 30 days of presentment.

4. This agreement may be executed in multiple counterpart signature pages (original, facsimile, or scanned electronic version) which taken together shall constitute a single document.

5. Any and all notices required hereunder shall be in writing, and addressed as follows, or to such other address as may hereafter be designated in writing by either party hereto, and shall be sent by either facsimile with confirmation or overnight carrier with receipt:

a) To the City:

Timothy Tenke, Mayor.  
City of Glen Cove  
9 Glen Street  
Glen Cove, New York 11542  
516-676-2000  
516-676-0108 (fax)  
TTenke@cityofglencoveny.org

With a copy to:

Attention City Attorney

Charles McQuair, Esq.  
325 Glen Cove Ave  
Sea Cliff, New York 11579  
516-759-5101  
516-759-5102(fax)  
cmcquair@cityofglencoveny.org

- b) Livingston Development Corp  
162-20 77th Road  
Flushing, New York 11366

With a copy to:

Patrick Hoebich, Esq.  
1 School Street, Suite 205  
Glen Cove, New York 11542

**IN WITNESS WHEREOF**, the undersigned have caused this instrument to be duly executed and its seal to be affixed thereto as of the day and year first above written.

**CITY OF GLEN COVE**

\_\_\_\_\_  
By: Timothy Tenke,  
Mayor.

By: **Livingston Development Corp**

By: \_\_\_\_\_

**135 Glen Cove Ave Corp.**

By:: \_\_\_\_\_



**SAHN WARD COSCHIGNANO, PLLC**  
ATTORNEYS AT LAW  
THE OMNI  
333 EARLE OVERTON BOULEVARD  
SUITE 601  
UNIONDALE, NEW YORK 11553  
—  
TELEPHONE: (516) 228-1300  
TELECOPIER: (516) 228-0038  
E-MAIL: INFO@SWC-LAW.COM  
WWW.SWC-LAW.COM

JON A. WARD  
Partner  
[jward@swc-law.com](mailto:jward@swc-law.com)

October 11, 2018

**VIA EMAIL**

Hon. Tim Tenke, Mayor,  
and Members of the City Council  
Glen Cove City Hall  
9 Glen Street  
Glen Cove, New York 11542

**Re: Epstein/Silverman v. City of Glen Cove, et al. (Nassau County  
Supreme Court Index Nos. 0488-2016, 2848-2016) (AD# 2017-  
11793)(the "Action")**

Dear Mayor Tenke and Members of the City Council:

This letter confirms the terms and conditions on which Sahn Ward Coschignano, PLLC (the "Firm"), has been retained by the Respondents, City of Glen Cove, Glen Cove City Council, Planning Board of the City of Glen Cove, City of Glen Cove Industrial Development Agency, and City of Glen Cove Community Development Agency (collectively, the "City Respondents"), to defend them in the above-referenced Action in connection with an appeal (the "Appeal") filed by the Petitioners, Roni Epstein and Marsha Silverman (collectively, the "Petitioners"), from an Order of the New York State Supreme Court, Nassau County (Peck, J.), dated October 4, 2017 (the "Order"), to the New York State Supreme Court, Appellate Division, Second Department (the "Second Department").

The City Respondents and the Firm agree as follows:

1. **Services.** The City Respondents hereby retain the Firm to defend them on the Appeal from the Order. The Firm's services shall include:

a. Opposing the Petitioners' pending motion for an enlargement of time to perfect the Appeal to the Second Department;

b. If the Petitioners' motion to enlarge their time to perfect the Appeal is granted, and the Petitioners thereafter perfect their Appeal: (i) reviewing and analyzing the

**SAHN WARD COSCHIGNANO, PLLC**

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Petitioners' appellate brief; (ii) reviewing and analyzing the Record on Appeal; (iii) legal research of the issues, as necessary; (iv) drafting, filing and serving the City Respondents' Answering Brief; (v) representation of the City Respondents at the appellate argument before the Second Department; and (vi) all other appropriate actions necessary to represent the City Respondents' interests on the Appeal.

2. **Services Not Included in Agreement.** It is agreed and understood that this retainer does not cover any appellate services associated with: (i) filing or opposing a motion in the Second Department to reargue and/or for leave to appeal any decision and order of the Second Department rendered on the Appeal to the New York State Court of Appeals; (ii) filing an appeal to the New York State Court of Appeals as of right from any decision and order of the Second Department rendered on the Appeal; and/or (iii) filing or opposing a motion to the New York State Court of Appeals for permission to appeal any decision and order of the Second Department rendered on the Appeal. In the event such services are necessary, they will be the subject of a separate retainer agreement.

3. **No Representations Regarding Outcome of the Appeal.** It is specifically acknowledged that the Firm makes no representations to the City Respondents, express or implied, concerning the outcome of the Appeal. The City Respondents acknowledge that the Firm has not guaranteed and cannot guarantee the success of any action taken by it on their behalf.

4. **Fees and Costs.**

a. **Hourly Fees.** The Firm's fees are calculated based on the time spent on this matter, on an hourly fee basis. The Firm charges for all time each attorney or legal assistant spends on the matter, including without limitation time spent drafting documents, conducting legal research, conferring or engaging in telephone calls, attending meetings, appearing in court, and preparing correspondence, memoranda and court documents. The Firm has agreed to provide the foregoing services to the City Respondents at the reduced municipal rate of \$190.00 per hour for all attorneys who work on the Appeal, and \$80.00 per hour for all paralegal/paraprofessionals who work on the Appeal, with an agreed upon aggregate cap on hourly fees of \$30,000.00, exclusive of costs and disbursements.

b. **Costs.** In addition to paying hourly fees, the City Respondents shall be responsible for paying all costs and disbursements incurred in the performance of the services including, without limitation, court filing fees, appellate printing fees, process serving fees, court reporter fees, expert witness fees, witness-subpoena fees, investigative services, computer research, photocopy charges, overnight delivery service charges, postage, facsimile and telephone charges and other customary office disbursements.

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c. **Statements.**

i. **Monthly Statements.** The Firm shall prepare and render to the City Respondents on a monthly basis a statement of charges for services rendered and costs advanced or incurred during the calendar month. Outstanding balances are due upon receipt of the invoice.

ii. **Interim Statements.** The Firm reserves the right to prepare and render interim statements when appropriate, reflecting all current costs and charges due, and such balances are likewise due upon receipt of an invoice.

5. **Right to Arbitration.** Under Part 137 of the New York Rules of Court, the City Respondents have the right to seek arbitration of any fee dispute, involving a sum between \$1,000.00 and \$50,000.00. In the event of such a fee dispute, or at the City Respondents' request, the Firm will provide the City Respondents with the information necessary to commence an arbitration proceeding, including but not limited to, the arbitration rules and a form for requesting arbitration.

6. **Communications.**

a. The Firm will keep the City Respondents informed as to the status of the Appeal, and agrees to explain the applicable laws, the available courses of action, and the attendant risks. The Firm will notify the City Respondents promptly of any material developments in the Appeal, including, without limitation, the argument date and any decisions and orders of the Second Department, and will be available for meetings and telephone conferences with the City Respondents at mutually convenient times. If the City Respondents have any questions with respect to charges shown on any bill, please immediately contact Michael H. Sahn, Esq., who will be responsible for addressing the City Respondents' inquiry.

b. Periodically, the Firm distributes promotional materials which include listings of representative clients in a variety of industry and service groups. Accordingly, from time to time, the Firm may refer in its materials to its representation of the City Respondents without disclosing confidential information.

7. **Withdrawal or Discharge of Attorneys.**

a. The City Respondents shall have the right to discharge the Firm at any time. In such case, the Firm shall be entitled to retain any portion of the fee earned by it, and to review all monies on account of any costs per the terms and provisions hereof, up to and including the effective date of such discharge.

b. The Firm shall have the right to withdraw from this representation, as described herein, should circumstances arise that make it appropriate for us to do so, including,

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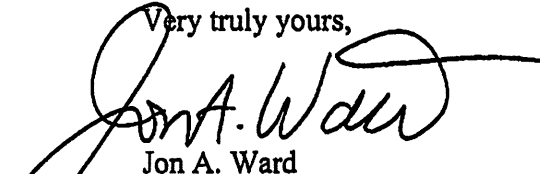
but not limited to, in the event that the City Respondents fail to pay legal fees and costs incurred on its behalf as set forth herein. Prior to withdrawing, the Firm will give due notice to the City Respondents of its intention to withdraw and allow the City Respondents time to employ other counsel. Additionally, if the Firm is representing the City Respondents before a tribunal, and permission for withdrawal is required by the rules of such tribunal, the Firm will not withdraw from the proceeding without the tribunal's permission. Should the Firm withdraw, the Firm shall be entitled to receive all fees and/or costs per the terms of this agreement, up to and including the effective date of such withdrawal.

**8. Certification of Papers.**

Court rules require us to certify any court papers submitted on the City Respondents' behalf which contain statements of fact, and specifically to certify that the Firm has no knowledge that the substance of the submission is false. Accordingly, the City Respondents agree to provide the Firm with complete and accurate information which forms the basis of any court papers which we prepare on its behalf.

If the foregoing is agreeable, please sign this retainer agreement and return it to us. A faxed or scanned signature on this retainer agreement shall be deemed an original for all purposes, and it is agreed that this retainer agreement may be executed in counterparts, and each counterpart, when taken together, shall constitute a complete agreement.

Very truly yours,



Jon A. Ward

JAW:es

**AGREED AND ACCEPTED**  
October \_\_, 2018

**CITY RESPONDENTS**

By: \_\_\_\_\_  
Mayor Tim Tenke

**CONSULTANT CONTRACT  
BETWEEN THE CITY OF GLEN COVE  
AND LOCKWOOD, KESSLER & BARTLETT, INC.**

**AGREEMENT** dated as of the (       ) day of (       ), 2018, between the City of Glen Cove, a Municipal Corporation duly created and existing under the laws of the State of New York, having its office located at City Hall, 9 Glen Street, Glen Cove, New York 11542 (hereinafter referred to as "City"), and Lockwood, Kessler & Bartlett, Inc., a corporation under the laws of the State of New York, having its office at One Aerial Way, Syosset, NY 11791 (hereinafter referred to as "Consultant").

**W I T N E S S E T H:**

**WHEREAS**, in connection with a Water Quality Improvement Project Grant funded through the New York State Department of Environmental Conservation (NYSDEC) identified for the purposes of this Agreement as the Rehabilitation of the East Island Bridge and Dosoris Pond Project (the "Project", as described in Schedule A attached hereto);

**WHEREAS**, the City requires the services of a professional engineering consultant to perform services as described in Schedule A attached hereto; and

**WHEREAS**, the Consultant is qualified and experienced in performing such services;

**WHEREAS**, the Consultant was selected from a competitive procurement process;

**WHEREAS**, the aforesaid services will be funded in part from a Clean Water Infrastructure Act (CWIA)/Environmental Protection Fund (EPF) Water Quality Improvement Project Grant administered by NYSDEC, with NYSDEC contract number C00520GG;

**NOW, THEREFORE**, the parties agree as follows:

1. Term

This Agreement shall commence on the date that it is executed by the City and the Consultant (the "Commencement Date") and terminate on the 31<sup>st</sup> day of December, 2021 (the "Expiration Date") unless sooner terminated or extended in accordance with its terms. Notwithstanding the foregoing the City shall, in its sole discretion, have the right to extend this Agreement by delivering a notice of extension to the Consultant at least thirty (30) days prior to the Expiration Date. The extended Agreement shall be on the same terms, conditions and covenants as during the initial term except that the Expiration Date shall be modified in accordance with the notice of extension.

2. Services to be Performed

(a) The Consultant shall perform the services described in the Scope of Services (Schedule A) annexed hereto and made a part hereof in conformance with the provisions of this Agreement and in conformance with signed amendments as may be agreed to between the parties to this Agreement.

3. Responsibility of Consultant.

(a) The Consultant shall be responsible for the professional quality, technical accuracy and all other services provided by the Consultant under this Agreement. The Consultant shall, without additional compensation, correct or revise any errors or deficiencies in the services as may be required to complete the Project.

(b) Neither the City's review, approval or acceptance of, nor payment for, any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or any cause of action arising out of the performance of this Agreement, and the Consultant shall be and remain liable to the City in accordance with applicable law for all damages to the City caused by the Consultant's negligent performance of any of the services furnished under this Agreement.

(c) All services required shall be performed personally by the Consultant and/or the subcontractors that are part of the Fee Schedule (Schedule C). None of the work or services performed under this Agreement shall otherwise be subcontracted without the City's prior written approval.

(d) The Consultant may have to conduct site visits and meet with such appropriate City personnel and agents as the City deems necessary to carry out this Agreement.

(e) The Consultant, in coordination with the City, must ensure that any materials, printed, constructed, and/or produced which are funded in whole or in part through any activity supported under the New York State Master Contract must acknowledge the support of the New York State Department of Environmental Conservation.

The City and Consultant must acknowledge in any communication to the public that funding was provided from the CWIA/EPF Water Quality Improvement Project Grant and include the following:

- Source of Funding: CWIA/EPF Water Quality Improvement Project Grant administered by the New York State Department of Environmental Conservation (NYSDEC)
- Project Name and Project Sponsor

(f) The Consultant will regularly advise City of the status of the Project, and will

coordinate its activities with City and accommodate other City activities at the Project site. The Consultant and City shall each designate an authorized representative to be available for consultation, assistance and coordination of activities.

(g) The firm shall make arrangements for all utilities and underground structures to be surveyed and marked out to the extent that they may affect design and construction associated with the Project.

4. City's Responsibilities

(a) City agrees to provide information in its possession including studies, available descriptive information about the project site, prior site evaluations and current conditions.

(b) City will cooperate with the Consultant to complete the Project in a timely, efficient, and cost-effective manner. City shall designate an authorized representative familiar with the Project who shall be available to the Consultant and who has the authority to make all decisions required to assure that the Consultant can provide the services per this Agreement.

5. Permits and Other Approvals

Unless specified otherwise the Consultant shall obtain in City's name all permits and approvals required for the Project.

6. Time of Performance.

(a) The services shall commence at the time that the Consultant is notified to proceed and will continue through completion of the project pursuant to the proposed project Work Schedule. Notice to proceed shall be via a written directive issued by the City.

(b) Within two (2) weeks of the Consultant's receipt of said notice, a critical path method (CPM) Work Schedule detailing all phases of work as outlined in the attached Scope of Services (Schedule A) and benchmark dates for completion of same, shall be submitted to the City for review and approval. The Work Schedule shall become an amendment to this Agreement (Schedule B).

(c) The work shall be performed under the direction of the City of Glen Cove. The Consultant shall not commence work a phase of the Project without the written approval of the City.

7. Compensation.

(a) It is understood and agreed that the maximum to be paid the Consultant for its services under and specific to this Agreement shall not exceed **(\$180,000)** per the Fee Schedule (Schedule C)

attached hereto and made a part hereof. The Fee Schedule shall contain a detailed fee proposal including the Consultant and subconsultants. This fee proposal shall include manpower estimates (number of hours for each staff member) for each phase of work per the Scope of Services and an hourly rate schedule.

(b) The City shall not be responsible for insurance, payroll taxes or fringe benefits.

(c) The multipliers for overhead costs and fee included in the hourly billing rates in the fee schedule shall not exceed 2.8 percent for design and reporting tasks and shall not exceed 2.3 percent for construction tasks.

8. City Budget.

(a) The City has allocated the following amount for the completion of the Project described herein:

Professional Services	<b>\$180,000</b>
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9. Method of Payment.

(a) Payments to the Engineer will be made in accordance with the terms of City requirements. All invoices must be accompanied by signed timesheets, City claim vouchers, and other appropriate supporting documentation as requested by the City.

(b) The City's standard payment term is thirty (30) to sixty (60) days upon receipt of invoice and originally signed voucher after services are performed or goods delivered. Payment for services performed to the satisfaction of the City shall be made on a monthly basis in the ordinary course of business upon receipt of duly authenticated invoices and vouchers. Receipts for all non-personal expenses must be attached for such expenses to be eligible for reimbursement. Ten (10) percent of the Agreement amount will be retained for up to 60 days after the final product has been delivered in order to ensure full compliance with Agreement guidelines.

10. Additional Rights and Remedies.

The rights and remedies set forth herein are not exclusive and are in addition to any of the rights and remedies provided by law or equity.

11. Independent Contractor.

The relationship of the Consultant to the City arising out of this Agreement is that of an independent contractor. The Consultant shall have no power or authority to act for, represent or bind the City in any manner, and shall not be entitled to any life insurance, health insurance, pension benefits or other benefits afforded to the regular employees of the City.



12. Delays.

The City shall have the right to delay, postpone or suspend the services of the Consultant at any time and for any reason deemed to be in the best interest of the City. In such event, the Consultant shall be paid such sums as shall be determined by the City to be due and owing for services actually rendered to the date of delay, postponement or suspension, based on the staff time performed to that date. Such delay, postponement or suspension shall not give rise to any cause of action for damages or for extra remuneration against the City.

13. Termination.

(a) The City may, by written notice to Consultant, terminate this Agreement in whole or in part at any time, either for the City's convenience or because of the failure of the Consultant to fulfill its Agreement obligations. Upon receipt of such notice, the Consultant shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Consultant in performing this Agreement, whether completed or in process.

(b) If the termination is for the convenience of the City, an equitable adjustment in compensation shall be made, but no amount shall be allowed for anticipated profit or unperformed services. The Consultant will be paid for its services based on the staff time performed up to the date of termination.

(c) If the termination is due to the failure of the Consultant to fulfill its Agreement obligations in a timely and proper manner as provided for in this Agreement, the Consultant shall be liable to the City for any additional cost incurred by the City to correct the Consultant's errors.

(d) If, after notice of termination for failure to fulfill Agreement obligations, it is determined that the Consultant had not so failed, the termination shall be deemed to have been effected for the convenience of the City. In such event, adjustment in compensation shall be made as provided in Paragraph (b) of this clause.

14. Changes.

(a) The City may, from time to time, require changes in the scope of the services of the Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, which are mutually agreed upon by and between the City and the Consultant, shall be incorporated in written amendments to this Agreement.

(b) No services for which an additional cost or fee will be charged by the Consultant shall be furnished without prior written authorization from the City.

15. Assignability.

Other than as described in the Consultant's proposal to the City, the Consultant shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto, provided, however, that claims for money due to the Consultant from the City under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City, and until such notice is received, the assignment shall be ineffective against the City.

16. Interest of Consultant.

The Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

17. Property Rights.

All work produced, and the product of all services rendered by the Consultant pursuant to this Agreement, shall be the property of the City. The Consultant agrees that any work based on the services rendered under this Agreement shall be kept in confidence and not be released, published, or disseminated in any form without the consent in writing of the City.

18. Right to Data.

The City shall have unlimited rights, for the benefit of the City, to all drawings, designs, specifications, notes, reports, summaries, estimates and other work developed in the performance of this Agreement, without additional cost to the City; and with respect thereto, the Consultant agrees to and does hereby grant to the City a royalty-free license to all such data which it may cover by copyright and to all designs as to which it may assert any rights or establish any claim under the design patent or copyright laws. The Consultant, for a period of three (3) years after completion of the project, agrees to furnish and to provide access to the original or copies of all such materials at the request of the City.

19. Disputes.

Pending final decision or determination by a court of competent jurisdiction of a dispute arising under this Agreement, the Consultant shall proceed diligently with performance in accordance with the Agreement and in accordance with the City's direction.

20. Final Payment.

Prior to final payment under the Agreement, or prior to settlement upon termination of the Agreement, and as a condition precedent thereto, the Consultant shall execute and deliver to the City a release of all claims against the City arising under or by virtue of this Agreement.

21. Non-Discrimination and Affirmative Action

(a) Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional nondiscrimination provisions, the City and Consultant will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; rates of pay or other forms of compensation; and the Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause. In all solicitations or advertisements for employees placed by or on behalf of the Consultant, the words "EQUAL OPPORTUNITY EMPLOYER" shall appear in type twice as large as that used in the body of the advertisement.

(b) The City has an established goal of twenty (20) percent New York State Certified Minority and Woman-Owned Business Enterprises (MWBE) participation for this Agreement. The percentage of the fee allocated to MWBEs must reflect this goal, with no less than 20 percent of the total fee schedule allocated to MWBEs. The Consultant must comply with this MWBE participation goal, and all affirmative action policies mandated by the Federal, State and local government. Within two (2) weeks of receipt of the "Notice to Proceed", the Consultant must prepare an MWBE Utilization Plan for approval by the City.

22. Consulting Liability

The Consultant will be responsible for all damage to life and property due to negligent acts, errors, or omissions of the Consultant, the Consultant's subcontractors, agents, or employees in the performance of service under this Agreement.

The Consultant shall indemnify and save harmless the City from claims, suits, actions, damages, and costs of every name and description resulting from the negligent performance of the services of the Consultant under this Agreement, and such indemnity shall not be limited by reasons of enumeration of any insurance coverage herein provided. Negligent performance of service shall

include, in addition to negligence founded upon tort, negligence based upon the Consultant's failure to meet professional standards and resulting in obvious and patent errors in the progression of the Consultant's work. Nothing in this Agreement shall create or give to third parties any claim or right of action against the City beyond such as may legally exist irrespective of this Agreement.

23. Insurance.

The Consultant shall not commence any work, and the Consultant shall not permit any employee or subcontractor to commence any work until satisfactory proof of carriage of all required forms of insurance, as set forth below, are submitted to and approved by the City.

- The City and Glen Cove Community Development Agency shall be listed as an additional insured on all insurance documents as they pertain to this specific Agreement for professional services.
- Liability and protective liability insurance policies shall provide primary and non-contributory coverage to the City and NYSDEC for any claims arising from the Consultant's work under this Agreement, or as a result of the Consultant's activities.
- The State of New York, NYS Department of Environmental Conservation, its officers, agents and employees, Division of Water, 625 Broadway 4<sup>th</sup> Floor, Albany, New York 12233-3508, shall be listed as Certificate Holder on all liability insurance certificate(s), as additional insureds on endorsement(s) and on additional supporting documentation.
- The insurance policies shall include a waiver of subrogation endorsement in favor of NYSDEC as an additional insured. The endorsement shall be on ISO Form Number CG 24 04 or a similar form with same modification to the policy.
- Policies shall not be changed or canceled until written notice has been provided to the City, and thirty (30) days prior written notice has been given by the City to NYSDEC, as evidenced by an endorsement or declarations page.
- Insurance documentation shall disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the Agreement.
- Endorsements in writing must be added to and made part of the insurance contract for the purpose of changing the original terms to reflect the revisions and additions as described. A copy of these endorsements must be provided to the City within a reasonable amount of time.
- Applicable insurance policy number(s) reference on the ACORD form must be referenced in the supporting documentation requested by the City and supplied by the insurance company (e.g. endorsement page, declarations page, etc.).

- This Agreement shall be void and of no effect unless the Consultant procures the required insurance policies and maintains them until completion of the work or acceptance by City, whichever is later.
- The insurance policies should be provided by insurance companies licensed to do business in the State of New York.

The Consultant shall obtain and maintain the following insurance coverage over the duration of the project:

- (a) Workers' Compensation to limits required by New York State law
- (b) Disability Benefits coverage as required by New York State Disability Law
- (c) Commercial General Liability Insurance with a limit of not less than \$2,000,000 each occurrence, and \$5,000,000 General aggregate. Such insurance shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal and advertising injury, cross liability assumed in this Agreement (including tort liability of another assumed in the Agreement). Limits may be provided through a combination of primary and umbrella/excess liability policies.
- (d) Business Automobile Liability with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any registered motor vehicle including owned, leased, hired and non-owned vehicles.
- (e) Professional Liability Insurance includes coverage for the Consultant's negligent act, error or omission in rendering or failing to render professional services required by this Agreement arising out of specifications, installation, modification, abatement, replacement or approval of products, materials or processes containing pollutants, and the failure to advise of or detect the existence or the proportions of pollutants. The Consultant shall procure and maintain during and for a period of three (3) years after completion of this Agreement, Professional Liability Insurance in the amount of \$1,000,000. The professional liability insurance may be issued on a claims-made policy form, in which case the Consultant shall purchase at its sole expense, extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.
- (f) The Consultant shall procure Marine Protection and Indemnity and Hull and Machinery coverage, as needed. The Consultant shall obtain Protective and Indemnity Liability insurance for all marine operations as part of performing the Scope of Services, with a minimum \$2,000,000 limit. Hull and Machinery coverage shall be provided for the total value of the watercraft or equipment to be used by the Consultant in executing such marine operations.

24. Controlling Law.

This Agreement is to be governed by the laws of the State of New York.

25. Successors and Assigns.

(a) The City and Consultant each is hereby bound, and the partners, successors, executors, administrators and legal representatives of the City and Consultant (and to the extent permitted by Paragraph (b) below, the assigns of the City and Consultant) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

(b) Other than as indicated in the Consultant's proposal to the City, neither the City nor Consultant shall assign, sublet or transfer any rights under, or interest in (including, but without limitation, moneys that may become due or moneys that are due), this Agreement without written consent of the other, or execute to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to any assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing in this paragraph shall prevent Consultant from employing such independent professional associates and consultants as Consultant may deem appropriate to assist in the performance of services hereunder.

(c) Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the City and Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the City and Consultant and not for the benefit of any other party.

26. Order of Precedence.

The Consultant shall follow the order of precedence below regarding guidelines pursuant to this Agreement:

- (a) NYSDEC guidelines, including but not limited to State of New York Master Contract and Program Specific Terms and Conditions;
- (b) City of Glen Cove guidelines;
- (c) Any and all questions on conflicting guidance shall be directed to the attention of the Glen Cove Department of Public Works Director in writing by the Consultant.

27. Code of Ethics.

The Consultant specifically agrees that this Agreement may be canceled or terminated if any work under this Agreement is in conflict with the provisions of any applicable law establishing a

Code of Ethics for Federal, State, or Municipal officers and employees.

28. Covenant against Contingent Fees.

The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

29. Subcontractors/Subconsultants.

All subcontractors and subconsultants performing work on this project shall be bound by the same required Agreement provisions as the Consultant. All agreements between the Consultant and subcontractor or other subconsultant shall be subject to review by the City.

NYS General Municipal Law §106-b and NYS Finance Law Article 9, §139-f require prime contractors and prime consultants to pay their vendors within seven (7) calendar days of receipt of payment from the public owner/sponsor, and provides for interest on late payments for all public works contracts. Agreement provisions incorporating any other payment schedule will not be allowed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented. When the City has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

30. Service of Process.

In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), the Consultant hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon the Consultant's actual receipt of process or upon the City's receipt of the return thereof by the United State Postal Service as refused or undeliverable. The Consultant must promptly notify the City, in writing, of each and every change of address to which service of process can be made. Service by the City to the last known address shall be sufficient. The Consultant will have thirty (30) calendar days after service hereunder is complete in which to respond.

31. Miscellaneous.

- (a) This Agreement shall be deemed only executory to the extent of the monies

available, and no liability shall be incurred by the City beyond the monies legally available for the purposes hereof.

(b) No contractual relationship shall be deemed to exist between the Consultant and the State as a result of this Agreement.

(c) Any written notice required or authorized under this Agreement shall be personally delivered, sent by certified mail or overnight delivery to the authorized representatives designated under this Agreement. The party providing notice must be able to document delivery to the other party.

(d) The paragraph headings in this Agreement are included solely for reference, and shall not define, limit, or affect the construction or interpretation of this Agreement.

(e) Each and every provision of any law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the contract shall be read and be enforced as though it were included herein.

(f) All attachments to this Agreement (Schedules A-F) are made a part hereof.

#### **ATTACHMENTS**

**Schedule A: Scope of Services**

**Schedule B: Work Schedule [TO BE ADDED]**

**Schedule C: Fee Schedule [TO BE ADDED]**

**Schedule D: Organization Chart**

**Schedule E: State of New York Master Contract and Program Specific Terms and Conditions**

**Schedule F: Title VI/Non-Discrimination Assurances**



**IN WITNESS WHEREOF**, the City and Lockwood, Kessler & Bartlett, Inc., have executed this Agreement as of the day and year first above written.

CITY OF GLEN COVE

LOCKWOOD, KESSLER & BARTLETT, INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Timothy Tenke, Mayor

\_\_\_\_\_

Name, Title

Name, Title

### ACKNOWLEDGMENT

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

On this **(INSERT DAY)** day of **(INSERT MONTH)** before me personally came and appeared Timothy Tenke, to me known, who being by me duly sworn, did depose and say that he resides at 9 Glen Street, Glen Cove, New York 11542, that he is the Mayor of the City of Glen Cove, the municipal corporation described in and which executed the foregoing instrument, that he knows the seal of the City of Glen Cove, the seal affixed to said instrument is such municipal seal, that it was so affixed by order of the City Council of the City of Glen Cove, that he signed his name thereto by like order, and that said order empowered him to bind the City of Glen Cove to the obligations of the foregoing agreement.

Notary Public

## CORPORATE ACKNOWLEDGMENT

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

On this **(INSERT DAY)** day of **(INSERT MONTH)**, before me personally came and appeared \_\_\_\_\_, to me known, who being by me duly sworn, did depose and say that **(HE/SHE)** resides at One Aerial Way, Syosset, NY 11791, that **(HE/SHE)** is the **(INSERT TITLE)** of Lockwood, Kessler & Bartlett, Inc., the corporation described in and which executed the foregoing instrument, that **(HE/SHE)** knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the Board of Directors of said corporation, that **(HE/SHE)** signed **(HIS/HER)** name thereto by like order, and that said order empowered him to bind the said corporation to the obligations of the foregoing agreement

Notary Public

**Schedule A:**  
**Scope of Services**

DRAFT

**Schedule B:  
Work Schedule**

DRAFT

**Schedule C:  
Fee Schedule**

DRAFT

**Schedule D:  
Organization Chart**

DRAFT

**Schedule E:**  
**State of New York Master Contract and Program Specific**  
**Terms and Conditions**

DRAFT

**Schedule F:**  
**Title VI/Non-Discrimination Assurances**

DRAFT





**LiRo Engineers, Inc.**

A LiRo Group Company

235 East Jericho Tpke, Mineola, NY 11501 Telephone 516.746.2350 Facsimile 516.747.1396 www.liro.com

September 26, 2018



Louis Saulino, P.E. Director of Public Works  
City of Glen Cove  
Glen Cove City Hall  
9 Glen St.  
Glen Cove, NY 11542

Re: Proposal for Engineering Services to update road opening permit concrete construction details & standards

Dear Mr. Saulino,

As requested, we submit our proposal for professional engineering services to develop details & assemble appropriate specifications and information related to road openings / permits and concrete construction work in the City ROW. In addition, we will review the current City technical specification related to road opening permits and make recommendations as to updates and or revisions. All details will be presented on 8½" x 11" sheets.

The maximum cost of our services is \$1,800.

We have included one meeting with the City within the above scope of services.

Engineering services shall be in accordance with the conditions outlined in LiRo's On Call standard agreement with the City dated June 17, 2014 and by City Resolution dated January 1, 2018 and will be billed accordingly.

Compensation is proposed at 3.0 times the direct salary of our people working on the project.

Should you approve, please indicate your authorization below, and return a signed copy to this office.

If you have any questions, please contact me.

Sincerely,

Paul Stevens, P.E., Associate Vice President

\_\_\_\_\_  
Authorization

\_\_\_\_\_  
Date

CITY OF GLEN COVE  
MAYOR'S ERRATA SHEET  
FOR THE CALENDAR YEAR BUDGET OF 2019

Account Code	Department	Object Code	Page #	Proposed Budget	If Adopted Budget	Net Change	Explanation
<b>Expenses:</b>							
A1210-55552	Mayors Office	S.A.F.E.		\$ 50,000.00	\$ 60,000.00	\$ 10,000.00	Increase for opoid program
TBD	City Attorney	Consultant -City Attorney		\$ -	\$ 150,000.00	\$ 150,000.00	City Attorney
TBD	City Attorney	Fees for Services		\$ -	\$ 20,000.00	\$ 20,000.00	West Law and Transcripts
A1420-51101	City Attorney	Regular Salaries		\$ 135,000.00	\$ -	\$ (135,000.00)	
A1420-55438	City Attorney	Contracted Services		\$ 150,000.00	\$ 193,000.00	\$ 43,000.00	Attorneys
A1420-51120	City Attorney	Part Time Counsel		\$ -	\$ 60,000.00	\$ 60,000.00	Position reinstated to budget
A1990-55940	Contingency	Contingency		\$ 280,000.00	\$ 184,705.00	\$ (95,295.00)	Off set
A3120-51101	Police	Regular Salaries		\$ 7,328,179.00	\$ 7,339,320.00	\$ 11,141.00	Chief Salary incorrect
A3310-51101	Traffic Department	Traffic Dept Increases		\$ -	\$ 30,000.00	\$ 30,000.00	Increase to hourly rates
A3510-55438	Animal Shelter	Contracted Services		\$ 144,000.00	\$ 150,000.00	\$ 6,000.00	Add monies for Trap, Splay and release program
A3630-51101	Code Enforcement	Code Enforcement Director		\$ -	\$ 75,000.00	\$ 75,000.00	Creation of new exempt position
A4540-55855	EMS	EMS Uniforms		\$ -	\$ 2,000.00	\$ 2,000.00	Volunteer uniforms
A4540-52230	EMS	EMS Equipment Replacement		\$ 8,000.00	\$ 12,000.00	\$ 4,000.00	
A7030-51101	Senior Center	Senior Account Clerk		\$ 52,468.00	\$ 53,622.00	\$ 1,154.00	Change of title transfer to A7030
A7140-55436	Parks & Recreation	Day Camp Expenses		\$ 110,000.00	\$ 60,000.00	\$ (50,000.00)	
<b>Increase /(Decrease) in Expenses:</b>						\$ 132,000.00	
<b>Revenue:</b>							
TBD	Finance	Cell Tower Revenue		\$ -	\$ 200,000.00	\$ 200,000.00	New Revenue
A7140-42042	Parks & Recreation	Non Resident Tybil Beach Fee	Pg. 24	\$ 18,000.00	\$ -	\$ (18,000.00)	Remove Revenue
A7140-42004	Parks & Recreation	Day Camp Registration		\$ 300,000.00	\$ 250,000.00	\$ (50,000.00)	
<b>Increase /(Decrease) in Revenues:</b>						\$ 132,000.00	
<b>NET CHANGE TO THE BUDGET REVENUES/(EXPENSES):</b>							\$ -