



**TOWN OF CLIFTON PARK
SOLICITATION AND CONTRACT DOCUMENTS FOR
PERFORMANCE BASED CONTRACT TO REPLACE CURRENT HID
STREETLIGHT SYSTEM WITH AN ENERGY EFFICIENT
STREETLIGHT SYSTEM**

REQUEST FOR PROPOSAL (RFP) NO. 1 of 2018

PROPOSAL DUE **January 18, 2018**
DATE AND TIME: **12:00 PM EASTERN TIME**

PROPOSER TO COMPLETE:

Name of Proposer _____

Address of Proposer _____

Contact **Thomas McCarthy** **Title: Town Attorney**

Telephone **518-371-6651**

E-mail **Tmccarthy@cliftonpark.org**

Dear Proposer:

The Town of Clifton Park (the “Town”) is soliciting Sealed Proposals to establish a contract through a Request for Proposals with a qualified firm to provide all labor, materials, equipment, and services for the acquisition of the existing streetlights within the Town, and for the design, financing, implementation, installation, and maintenance of an energy efficient LED street lighting system. The new system will replace the Town’s current high intensity discharge fixtures.

This solicitation is being conducted in accordance with Article 9 of the NYS Energy Law with the intent of issuing a Performance Based Contract whereby the energy savings and other related savings guaranteed by the contractor will offset the cost of any capital improvements and the contractor will receive as its compensation a portion of the guaranteed energy savings or revenue.

Information on the Town of Clifton Park is available at www.CliftonPark.org.

Proposers are advised that the contents of this RFP and the successful Proposer’s Technical and Cost Proposal, as submitted or negotiated, shall be incorporated into the resultant contract.

It is expressly understood that all costs associated with the preparation of the Technical and Cost Proposal are to be borne by the Proposer and the submission of such Proposals in no way obligates the Town of Clifton Park to any Proposer.

Qualifications

The Proposers must be able to produce evidence that they have an established satisfactory record of performance for a reasonable period of time and have sufficient financial support, equipment, and organization to ensure that they can satisfactorily execute the services if awarded a contract. The term “equipment and organization” as used herein shall be construed to mean a fully equipped and well established company in line with the best business practices in the industry and as determined by the proper authorities of the Town. The Town reserves the right, before awarding the contract, to require a Proposer to submit such evidence of its qualifications as it may deem necessary, and may consider any evidence available to it (including, but not limited to, the financial, technical and other qualifications and abilities of the Proposer, including past performance and experience with the Town) in making the award in the best interest of the Town.

All RFP Documents and Addenda Published Online

This solicitation and all addenda will be posted on the New York State Contract Reporter website at <https://www.nyscr.ny.gov/>, and on the Town’s website at <http://cliftonpark.org/index.php/government/requests-for-bids-and-proposals>

All prospective Proposers are encouraged to register with the New York State Contract Reporter to ensure that they receive all addenda for this RFP. Registration is free, but you must register to download documents. Once registered, you will have instant access to download solicitations and amendments from all participating agencies. **Prospective Proposers are responsible for ensuring that they receive all addenda.**

Communications with the Town

Proposers are advised that from the date this RFP is issued until the award of the Contract, no contact with Town personnel related to this solicitation is permitted. The only point of contact is the designated RFP Contact Person. Any Proposer who contacts any other Town personnel regarding this RFP may result in immediate disqualification.

SECTION I - INFORMATION FOR PROPOSERS

Prevailing Wage

A New York State Department of Labor (NYSDOL) Prevailing Wage Rate Case Number (PRC) has been assigned to this project. The PRC case number is # 2012004100.

To access the prevailing wage rate schedule for this project, enter the PRC number at the following New York State Dept. of Labor webpage:

<http://wpp.labor.state.ny.us/wpp/showFindProject.do?method=showIt>

Complete NYSDOL requirements can be viewed at

<http://www.labor.state.ny.us/workerprotection/publicwork/PWContents.shtm>

OVERVIEW

The Town of Clifton Park wishes to solicit a partner for a turnkey procurement project to acquire all streetlights within the Town, and replace with upgraded LED lighting. This will include assistance with the negotiation with and acquisition of the existing streetlights from the relevant utilities, and the design, procurement, installation and maintenance of the new LED lights under Town ownership.

The Town seeks to proceed under The New York State Streetlight Replacement and Savings Act of 20 PSL 70-(a) to acquire existing high pressure sodium lights from National Grid and, NYSERDA, and direct the replacement and upgrade to LED lighting through the project.

ARTICLE 1. DEFINITIONS

A. **AGREEMENT TO CONDUCT A COMPREHENSIVE ENERGY AUDIT:** A contract between the Town and the Energy Services Company selected to perform the Comprehensive Energy Audit for a particular Project.

B. **BASELINE ENERGY USE:** A calculation of energy use of a building or piece of equipment for a specified period that is used to project energy use had the Project not been implemented. It is calculated by taking the energy consumption for a similar period prior to Project implementation (as recorded in the Energy Use History) and adjusting it to reflect changes for agreed upon variables, such as degree days, occupancy and building use, in accordance with a methodology set forth in the accepted Comprehensive Energy Audit. (Energy use savings attributable to the Project are determined by subtracting actual energy use from the Baseline Energy Use for comparable time periods.)

C. **COMPREHENSIVE ENERGY AUDIT (CEA):** A survey of existing energy systems for the purpose of proposing Energy Conservation Measures and verifying that the proposed measures have the potential to generate energy savings. The results of a CEA are presented in a written report that includes a methodology for the calculation of the Baseline Energy Use and a description of physical conditions, and equipment counts, nameplate data, and control strategies. For each measure recommended, CEA report provides equipment counts, implementation costs, efficiency levels, or performance characteristics of the equipment comprising the proposed measure, on-going maintenance costs, annual energy, and cost savings, the useful life of the measure, and a life-cycle cost analysis. Projected energy savings must account for interaction among recommended measures.

D. **ENERGY CONSERVATION MEASURE (ECM):** A measure to reduce energy use or costs, such as the installation of equipment or systems, or modification of equipment or systems, or revised operation and maintenance procedures.

E. **ENERGY PERFORMANCE CONTRACT (EPC):** A contract for an energy cost reduction project where the cost of implementing Energy Conservation Measures and any proposed ongoing energy services, including equipment maintenance, energy savings guarantees, and measurement and verification activities, is recovered through energy and energy-related cost savings. Financing may be provided directly by the ESCO or through Third-Party Financing.

F. **ENERGY SERVICES COMPANY (ESCO):** A firm that proposes, procures, installs, and possibly maintains ECM's and guarantees the facility's avoided energy costs resulting from implementing such measures will either exceed the total project cost or meet other contractual criteria.

G. **ENERGY USE HISTORY:** A detailed summary of the annual energy consumption of a particular facility prior to project implementation. The history shall include energy use, demand, and cost data by fuel type. It is used to prepare the Baseline Energy Use.

H. **MEASUREMENT AND VERIFICATION:** The process of monitoring and measuring the energy consumption of a facility or specific equipment or systems, before and after Project implementation, to determine if guaranteed or predicted energy savings are being realized.

- I. **PROJECT:** An energy and energy-related cost reduction program that may include design, engineering, procurement, installation of equipment, ongoing maintenance, Measurement and Verification, and other services.
- J. **THIRD-PARTY FINANCING:** Project financing provided to the Town by an independent financial institution, rather than by the energy services company.
- K. **TOTAL PROJECT COST:** All costs associated with the development and implementation of an Energy Performance Contract, including, but not limited to: the Comprehensive Energy Audit; Energy Conservation Measure design, procurement and installation; financing fees; construction performance and payment bonds; interest charges; training of facility staff; Measurement and Verification; equipment maintenance; project management; the energy savings guarantee; and contractor overhead and profit.
- L. **ADDENDA and ADDENDUM** shall mean the additional or modified contract provisions issued in writing by CLIFTON PARK prior to the Notice of Acceptance of Proposal/Contract Award.
- M. **BEST AND FINAL OFFER** shall mean that after negotiations with Proposers in the competitive range, the Proposers are invited to submit a second, best and final, technical and cost proposal.
- N. **BOARD OF CONTRACT AND SUPPLY (BOCS)** is the governing body of the Town of Clifton Park empowered to approve all contract awards and to reject bids or proposals.
- O. **TOWN, CLIFTON PARK, and TOCP** shall mean the Town of Clifton Park.
- P. **CONTRACT, CONTRACT DOCUMENTS, AGREEMENT, REQUEST FOR PROPOSAL** and the abbreviation RFP shall mean the Information for Proposers, Scope of Work, Vendor Background Questionnaire, Performance and Payment Bond Forms (if applicable), Standard Terms and Conditions, Technical and Cost Proposals, all A
- Q. **CONTRACTOR, CONSULTANT, VENDOR, and PROPOSER** are synonymous and shall mean the Corporation, Firm, Partnership, Individual, or any combination thereof, who has submitted a Proposal.
- R. **NOTICE** shall mean a written notice.
- S. **NOTICE OF ACCEPTANCE OF PROPOSAL/CONTRACT AWARD** shall mean the document that apprises the successful Proposer that this RFP has been approved for contract award by the Clifton Park Town Board. It also informs the vendor to submit the required bonds and insurance, if required. It is not authorization to begin work.
- T. **NOTICE TO PROCEED** is the document issued by the Town informing the Vendor that they may begin the work. It is issued after the Vendor has submitted, and the Town has accepted the required bonds and insurance, if necessary, and the Contract has been executed by all parties.
- U. **PROJECT, WORK, and SERVICES** are synonymous and shall mean all the required obligations of the Contractor hereunder, including but not limited to the performance of any labor or services, the supplying of any goods or materials, the furnishing of any other resources or

requirements or deliverables necessary to perform, accomplish, and complete this Contract's objectives as stated in the Scope of Services.

V. PROJECT MANAGER shall mean the individual or his/her duly authorized representative who is designated by CLIFTON PARK to administer this contract.

W. PROPOSAL is an offer made by an entity to the Town as a basis for negotiations for entering into a contract.

X. REQUEST FOR PROPOSAL (RFP) all the documents furnished to prospective Proposers when soliciting proposals for the purpose of awarding a contract based on a formal evaluation of the characteristics deemed relevant to the Town's objective, such as quality, project management, past experience, and professional reputation.

Y. SUBCONTRACTOR shall mean an individual or organization that enters into a contract to furnish services or labor and materials or apparatus in connection with the Work directly or indirectly for or on behalf of the Contractor.

ARTICLE 2. NEGOTIATIONS

1. The Town reserves the right, in its sole discretion, to reject at any time any or all proposals, or to withdraw this RFP. The Town likewise reserves the right, at any time, to waive compliance with, or modify any of the terms and conditions of this RFP or to entertain modifications or additions to selected proposals to adjust to a rapidly changing regulatory environment.

ARTICLE 3. CONTRACT AWARD

1. The Contract resulting from this solicitation shall be awarded to the Proposer the Town considers most qualified and whose Proposal the Town determines to be the most advantageous to the Town, based on the evaluation factors set forth in the RFP.
2. Any proposed contract award shall be subject to all required Town oversight approvals.
3. Equal Employment Opportunities (EEO), Civil Rights, MacBride Fair Employment Principles, and the New York State Labor Law and OSHA regulatory standards.

ARTICLE 4. PERIOD OF PERFORMANCE

The Contract for the Work specified herein shall commence on a mutually agreed upon date and time and extend for ten years after accepted installation.

ARTICLE 5. PROPOSAL EVALUATION CRITERIA

The evaluation criteria that will be used to judge Proposals are set forth below.

A. Proposer Experience and Qualifications

- i. Past performance and references. Experience with energy efficient lighting conversion projects, including documented savings to client.
- ii. Qualifications of Proposer and team members in designing energy efficiency improvement projects and managing implementation, installation, monitoring savings, and providing or arranging financing.

- iii. Financial strength of proposer.
- iv. Experience in installing new equipment and providing equipment maintenance and related support services.

B. Financial Approach

- i. Attractiveness of the methodology to obtain pricing data from the relevant utilities and qualifications and experience in negotiating successful acquisition of the existing lighting infrastructure from those utilities.
- ii. Attractiveness of proposed project financing.
 - The projected net dollar benefit to the Town.
 - The methods that will be used to determine the amount of the Proposer's compensation in connection with the project.
- iii. Structure of savings guarantee as it relates to project financing and the methodology for measuring savings.

C. Technical Approach

- i. Content and scope of proposed energy efficiency measures.
- ii. Proof that the proposed streetlight manufacturer's product meets the performance criteria for outdoor roadway luminaires established by the Design Lights Consortium. The criteria can be found at <http://designlights.org/solidstate.manufacturer.requirements.php>

D. Project Management and Implementation

- i. Ability to manage subcontractors.
- ii. Ability to adhere to project schedule / meet deadlines.
- iii. Approach to coordinating tasks with Town personnel.
- iv. Ability / willingness to handle problems during and after project implementation.
- v. Ability to help inform and educate project stakeholders including the public

The award will go to the responsible Proposer whose proposal provides the best value as determined by the Town of Clifton Park.

ARTICLE 6. PROPOSAL PACKAGE AND SUBMISSION REQUIREMENTS

1. Please furnish two **original** proposals and one (1) electronic copy on compact disk in .pdf format. The proposal must be signed by a duly authorized official of the firm, with the person's name and title printed below the signature. Proposals are due by **January 18, 2018 at 12:00 P.M.** Proposals must be labeled and addressed as follows:

**Town of Clifton Park
One Town Hall Plaza, Attention: Town Clerk
Clifton Park, New York 12065
Re: Request for Proposal No. 1.
Title: Energy Efficient Streetlight Conversion Program**

2. **Oral Presentations**

After receipt of Proposals, Proposers may be requested to make an oral presentation. Proposers unable or unwilling to make oral presentations may be removed from consideration. The Town of Clifton Park reserves the right to **interview all staff proposed for the engagement** and to approve or reject their participation in the engagement.

3. **Cancellation**

The Town of Clifton Park reserves the right to cancel this RFP at any time, if the Town deems it to be in its best interest. **In no event shall the Town have any liability whatsoever for cancellation of an award before execution of a contract.** A Proposer assumes sole risk and responsibility for its expenses before execution of a contract and shall not commence work until receipt of a contract.

4. **Confidentiality**

Proposers shall specifically identify those portions of the Proposal deemed to be confidential, proprietary information, or trade secrets, and provide justification why such material, upon request, should not be disclosed by the Town.

Such information deemed by the Proposer to be confidential or proprietary should be easily separable from the non-proprietary sections of the Proposal.

5. **Modified Proposals**

A Proposer may submit a modified Proposal to replace all or any portions of a previously submitted Proposal up until the Proposal Due Date and Time and, if discussions have begun, up until the Due Date and time established for submission of Best and Final Offers. The Evaluation Committee shall consider only the latest timely version of the Proposal.

6. **Proposal Ownership**

All proposals received in responses to this Request for Proposal shall become the property of the Town of Clifton Park.

ARTICLE 7. PROPOSAL CONTENTS

The Proposal shall be prepared **simply and economically** providing a straightforward, concise description of the Proposer's qualifications, experience, and capabilities to satisfy the requirements presented in this RFP. Elaborate brochures and other representations beyond those sufficient for presenting a complete proposal are neither required nor desired.

1. **The Proposal** format shall be organized into the following sections **in the order shown**. Each section must be clearly labeled and separated by tabs. All pages must be numbered.

Tab 1) Firm Profile. Introduce the Proposer by describing its **origin, current ownership and management**, and a **summary of the Proposer's qualifications** to perform the work described herein.

- If the Proposer is a joint venture or consortium, the **origin, current ownership and management, and qualifications of each firm** comprising the joint venture or consortium shall be separately identified and the **principles of each firm** shall be noted.
- Indicate whether the Proposer (and each firm comprising the joint venture or consortium) is national, regional, or local, the number of years in business, the total number of employees, and the total number of employees in the nearest local office that will be dedicated to the Clifton Park contract. Provide the address of the nearest local office and the contact information for the individual that manages the local office.
- Indicate if the Proposer will be providing all services required herein with their own work force or if sub-consultants / sub-contractors / suppliers will be used. If using subs, describe the type and percentage of work they will be supplying.
- Submit copies of any licenses, professional certificates, and memberships that the Proposer possesses as part of doing business as it relates to the work described herein.
- Describe technical qualifications that are relevant to the work described herein, particularly with **investment grade energy audits** and providing services addressing energy efficient streetlight conversions.
- Indicate the number of and total dollar value of energy performance contracts the Proposer has entered into since its inception.

Also include the following:

- Legal organizational name and address of the Prime Proposer;
- Legal organizational name and address of all firms comprising the joint venture or consortium, and sub-contractors and consultants, if any;
- Name, title, telephone (land and cell), facsimile number, and e-mail of the person(s) **authorized to bind the Prime Proposer contractually**;
- Name, title, telephone (land and cell), facsimile numbers, and e-mail of the person(s) to be contacted regarding the content of the Proposal, if different from the above.

Proposers shall **identify all their current active projects in Clifton Park** and active projects in the areas surrounding Clifton Park. Proposers shall also indicate if any of the team members

or sub-contractors/consultants proposed for this engagement is working on those projects and if so, the nature of their work on those projects.

The cover letter shall be signed by the person(s) duly authorized to bind the Proposer contractually.

Tab 2) Describe the Proposer's **qualifications and experience** (and each firm comprising the joint venture or consortium, and any sub-consultants, if applicable) as specified in Article 5 A. List the Proposer's Performance Based Contracts completed or in-progress and include the following information.

1. Agency/owner
2. Contract number
3. Contract title
4. Name & location of project
5. Contact name, telephone number, address
6. Brief description of work and services provided
7. Indicate if you were a prime or sub-consultant
8. If you were the prime consultant and sub-consultants were used, identify the names of the sub-consultants and describe the work they performed
9. Period of performance
10. Method of compensation
11. Original contract amount
12. Current or final contract amount
13. Number of change orders
14. Reason for change orders
15. Describe any area of the scope-of-work considered unique
16. Indicate any key individuals who participated in this contract that are proposed to be assigned to the Town contract.

- Describe how much experience Proposer has with guaranteeing projects.
- Describe whether savings accrued as predicted on past projects.
- Indicate if any guarantee was ever invoked, under what circumstances, and was payment made.
- Describe the Proposer's overall financial strength to support a Guaranteed Performance Based contract.

Tab 3

Describe the proposer's concepts for acquiring timely pricing information from the relevant utilities

Describe the proposer's experience and general methodology for critically evaluating initial pricing data and analysis of the stranded costs actually associated with existing lighting fixtures and infrastructure within the Town, and

Propose timeline and, concepts for negotiations with relevant utilities for ultimate acquisition, of necessary lights, fixtures and infrastructure from utilities.

Tab 3) Describe the Proposer's **method of financing** or arranging financing for this project and receiving compensation during the contract term as specified in Article 5 B.

- The Town seeks to structure the project such that payment to finance the project cost will be paid in full by the value of measured energy savings resulting from the project.
 - Describe the methods for calculating the Proposer’s fees as a function of the project’s energy savings performance.
 - Describe the services the Proposer will seek to be paid for over the term of the guaranteed energy performance contract.
 - Describe the method by which the Proposer will be paid for such services.
 - Provide expected purchase price of utility equipment including streetlights, foundations, arms and any connection infrastructure including cabling.
 - Provide **unit pricing for installation**, including all costs associated with installing the proposed energy efficiency streetlights and all accessories.
 - Provide the total project cost, annual payment, and year 1 energy cost savings as follows:

Total Project Cost: \$

Total Annual Payment: \$

Total Year 1 Energy Cost Savings: \$

- Factors that will be considered include: interest rates, portability of the financing, the methods that will be used to determine the Proposer's compensation, the level of energy savings achieved in the energy efficient streetlights, and the Proposer's source(s) of financing.
 - Describe the types of financing arrangements used by Proposer for past energy performance contracts.
 - Describe the Proposer’s preferred approach to providing or arranging financing including assisting the Town with applications for any grants, loans, or other benefits available through state or federal sources.
 - Describe if the funds used for the project will come from the Proposer or from third-party financing. Describe how the credit worthiness of the Town will affect the interest rates paid on the financing.
- Include documentation on the basis of the estimated energy conservation measure implementation costs and energy savings. Cost estimates for proposed energy conservation measures must include lawful disposal or trade-in costs for replaced equipment.
- Describe the Proposer’s technical auditing and analysis procedures and any anticipated Town resources required in the provision of technical data and / or other support required for the audit. Include a copy of a **Comprehensive Energy Audit** developed for **one** project.
 - Extra consideration will be given to Proposers that can provide 1) a GPS (XY Coordinate) location for every streetlight, 2) an inventory of model, wattage, installation date, pole number of location, and ID number of lamp head.

- Describe the methods used to compute baseline energy use. Summarize procedures, formulas and methodologies, including any special metering or equipment the Proposer will use to measure and calculate energy savings under this program. Include a copy of a sample of **the baseline calculations** used for **one** project.
- Describe the methods used to adjust the guaranteed level of savings from any material changes during the contract term that may occur due to factors such as weather, electrical supply and demand, etc.
- Describe how cost savings opportunities will be identified, documented, and measured. Submit a sample **Measurement and Verification Plan**.

Tab 4) Describe the proposed energy efficient streetlights and the **technical approach to providing these services as specified in Article 5 C**. Include the following information:

- Replacement fixture energy efficiency (lumens per watt) for each proposed fixture and the proposed replacement values for the Town fixtures.
- Streetlight Manufacturer's Product Data Sheet
- LM-79 Test Report for each lamp type from an accredited, certified independent testing laboratory (as specified in [DOE Manufacturers' Guide](#)), to include
 - light output and efficacy data,
 - color data (CCT and CRI),
 - electrical data (input voltage, input current, power, and power factor),
 - IES photometrics file.
- LM-80 test results for each streetlight module package.
- Address the Town's need to contract or sub contract for for maintenance services for the upkeep of the proposed new energy efficient streetlights, and propose method (s) for subcontracting, shared services or other means to cost efficiently handle this new obligation on a long term basis. Discuss the relationship of maintenance services to the savings guarantee, as well as efficient structure for ensuring long term maintenance efficiently.

Tab 5) Describe the Proposer's **project management and implementation approach** to providing these services as described in Article 5 D and include the following:

- Describe the services your company will provide in designing, specifying, and overseeing the installation of energy conservation measures.
- Discuss any benefits of your approach as they relate to overall project performance and/or cost.
- Explain how these operations will be coordinated with the daily operations of the Town.
- Provide a description of the Proposer's **organizational structure and management and work force by task**.
- Name the proposed project manager(s). Include the resume of the proposed project manager(s). The resumes must indicate employment history, education, professional licenses, experience directly related to this Work, and a minimum of two references.
 - List the proposed project manager's successfully completed or in-progress projects of similar type, size, and scope to the work required herein.

- Identify the office that will be assigned to the Clifton Park contract along with the principle management and supervisory staff, including partners, managers, and all supervisors and specialists, that will be assigned to this work and **indicate their experience** with performing the work required herein.
- Indicate which previous contracts for the Proposer that the proposed Clifton Park team members have worked on. Describe the proposed Clifton Park team members' specific responsibilities.
- Describe the lines of authority and communication.
- Explain how you envision the project team interacting with Town representatives.
- Describe your organization's customary selection and replacement procedures for the project staff that will be providing the services as outlined in this RFP, including your organization's willingness to commit to Town requests to maintain specific staffing assignments on key portions of the project.

Tab 6) Describe what you consider to be **pertinent issues, potential problems, and risks** related to this project.

ARTICLE 8. FORM OF CONTRACT

In connection with any agreement entered into by the Proposer and Clifton Park as a result of this procurement, such agreement shall contain the following clause, as required by Article 9 of the Energy Law: "This contract shall be deemed Executory only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account therefore shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract."

Title VI Insert

Further, any agreement entered into by the Proposer and the Town shall contain Title VI attachments, consistent with the Town's Title VI Policy adopted on July 19, 2017.

ARTICLE 9. EXAMINATION OF SOLICITATION DOCUMENTS

Prospective Proposers are responsible for examining the Solicitation Documents carefully before submitting a proposal, and shall submit to the Purchasing Director, **in writing**, any questions, or requests for clarification of any ambiguity, or correction of any inconsistency or error in the documents. The Town's response to such a written request shall be issued in a written addendum to the RFP and shall be binding on all Proposers. Only written addenda issued by the Bureau of Purchasing shall be binding.

No officer, employee, or agent of the Town is authorized to clarify or amend the Solicitation Documents by any other method, and any such clarification or amendment, if given, is not binding on the Town.

SECTION II – STATEMENT OF OBJECTIVES

The Town of Clifton Park seeks to maximize cost savings. It is anticipated that the conversion to energy efficient streetlights will result in less electrical consumption and that these savings will be sufficient to pay for the financed cost of the streetlight upgrades. The Town seeks to optimize its street lighting design for the benefit of the public, and will look for a design which combines optimal illumination, proper aesthetics, and energy efficiency.

Services and capital improvements will be financed through an Energy Performance Contract which:

- incurs no initial capital costs to the Town
- is financed over r term. Proposals should provide options for the appropriate payback term, not to exceed 15 years.
- provides the Town with an exclusive right to purchase all installed equipment at the end of the contract term for \$1.00.
- achieves significant long term cost savings through reduced energy use, and
- achieves an annual guarantee for cost savings for each year with no carryover for future years

The selected Proposer shall provide all professional services to design, implement, and finance an energy efficient street lighting program. The Proposer shall also provide all labor, equipment, materials, supplies, and services to remove and lawfully dispose of current HID streetlights and retrofit with energy efficient streetlights.

There are approximately 601 streetlights within the Town of Clifton Park. Of these, approximately 499 are owned and maintained by National Grid. 102 are owned and maintained by NYSEG.

The Town of Clifton Park streetlight inventory is available at <http://cliftonpark.org/index.php/government/requests-for-bids-and-proposals>.

The Proposer shall inform and educate stakeholders including the Town Board, staff and the public about the project to address community concerns and ensure smooth implementation of the project. The Town anticipates undertaking the conversion in phases beginning with Major Transportation Corridors such as Routes 146 and 9, 146A and selected other non-residential arterials to test lighting selections prior to implementation Town-wide.

The Town is seeking a contractor that can maximize the net economic benefit to the Town over the financing term of the energy services agreement, and that will responsibly minimize the risk to the Town in connection with the implementation, installation, scheduling, maintenance, and ongoing phases of the proposed conversion to energy efficient streetlights. Such risks may include interruptions to Town operations, security, and financial risks. The guaranteed savings provided by the selected Proposer shall fully offset the project costs involved for the Town.

Annual Reconciliation: The Proposer shall, on an annual basis, reimburse the Town of Clifton Park for any shortfall in guaranteed energy savings projected in the contract. The energy savings shall be monitored continuously, reported quarterly, and reconciled on an annual basis, commencing from the date that the energy conservation measures become fully operational, and the construction / installation of the energy efficient streetlights are accepted by the Town. In the event that the actual savings are less than the guaranteed savings, the Proposer shall provide cash reconciliation of the difference within 30 days. A surplus in any one year shall not be carried forward or applied to a shortfall in any other year.

The Proposer shall be responsible for compliance with all applicable local, state, and federal codes, statutes, and permitting requirements related to this work. All engineering, design, installation and construction work shall be done by persons or firms holding the legally required licenses valid in the State of New York.

The Proposer shall prepare a Maintenance and Protection of Traffic Plan for approval by the Town in consultation with NYSDOT and the County of Saratoga.

All proposed energy performance contracts and proposed financing arrangements must be capable of being implemented under the laws and regulations of the State of New York.

The selected Proposer will be required to provide comprehensive energy services, including but not limited to:

- A. Performing an investment quality comprehensive energy audit (CEA) which is a survey of the existing streetlight system for the purpose of proposing Energy Conservation Measures and verifying that the proposed measures have the potential to generate energy savings. The results of a Comprehensive Energy Audit are presented in a written report that includes a methodology for the calculation of the Baseline Energy Use and a description of physical conditions, and equipment counts, nameplate data, and control strategies. For each measure recommended, the Comprehensive Energy Audit report provides equipment counts, implementation costs, efficiency levels or performance characteristics of the equipment comprising the proposed measure, on-going maintenance costs, annual energy and cost savings, the useful life of the measure, and a life-cycle cost analysis.
- B. Calculating the estimated savings from replacing HID lights with energy efficient LED streetlights.
- C. Completing design and specifications for equipment and systems to be used in providing energy efficiency services.
- D. Providing all services associated with the procurement and installation of new energy efficient equipment.
- E. Submitting performance security in the amount of 100% of the total project cost. The Proposer must promptly repair, replace, restore or rebuild, as the Town may determine, any finished work in which defects of materials or workmanship may appear or to which damage may occur because of such defects, during the one year period subsequent to the date of final acceptance except where other periods of guarantee are provided for.
- F. Training Town staff in the operation and maintenance of the proposed streetlights.
- G. Providing energy savings performance guarantees.
- H. Providing financial incentives and rate reductions available from companies supplying electricity, or transmission or distribution service for electricity.
- I. Identifying the most effective measures that can be taken to reduce electrical consumption and costs for maintenance of street lighting.

- J. Creating a Streetlight Database for the Town, and providing cut sheets and other documentation required by National Grid/NYSEG to verify the wattage and quantity changes to ensure that the resulting energy savings are reflected in the Town's streetlight electric charges.
- K. With the exception of damage due to force majeure, the Proposer shall provide a parts guarantee that includes providing all replacement streetlight heads and any of its components, including but not limited to the lamp, casing, or photocell as required and necessary to ensure that all lights are functional for 120-months after installation. At a minimum, the Town expects the following:
 - a. The Contractor shall furnish an irrevocable standby Letter of Credit in an amount equal to 10% of the total project cost, issued by a solvent bank or trust duly licensed to do business in the State of New York, which shall be payable to the Town of Clifton Park, and renewable annually for the duration of the contract. The Town shall have the right to draw down on the Letter of Credit in the event that the Contractor fails to perform any material aspect of the project, after notice to cure and default thereon.
 - b. The Contractor may investigate and determine the corrective requirements for each reported malfunction, failure, or outage of the streetlight head and any of its components including but not limited to the lamp, ballast, casing, or photocell.

SECTION III - LAWS OF NEW YORK STATE – ENERGY LAW - ARTICLE 9

§ 9-103. Energy performance contracts.

1. Any energy performance contract entered into by any agency or municipality shall contain the following clause: "This contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account therefore shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract."
2. In the case of a school district or a board of cooperative educational services, an energy performance contract shall be an ordinary contingent expense, and shall in no event be construed as or deemed a lease or lease-purchase of a building or facility, for purposes of the education law.
3. Agencies, municipalities, and public authorities are encouraged to consult with and seek advice and assistance from the New York state energy research and development authority concerning energy performance contracts.
4. Notwithstanding any other provision of law, in order to convey an interest in real property necessary for the construction of facilities or the operation of equipment provided for in an energy performance contract, any agency, municipality or public authority may enter into a lease of such real property to which it holds title or which is under its administrative jurisdiction as is necessary for such construction or operation, with an energy performance contractor, for the same length of time as the term of such energy performance contract, and on such terms and conditions as may be agreeable to the parties thereto and are not otherwise inconsistent with law, and notwithstanding that such real property may remain useful to such agency, municipality or public authority for

the purpose for which such real property was originally acquired or devoted or for which such real property is being used.

5. In lieu of any other competitive procurement or acquisition process that may apply pursuant to any other provision of law, an agency, municipality, or public authority may procure an energy performance contractor by issuing and advertising a written request for proposals in accordance with procurement or internal control policies, procedures, or guidelines that the agency, municipality, or public authority has adopted pursuant to applicable provisions of the state finance law, the executive law, the general municipal law, or the public authorities law, as the case may be.
6. Sections one hundred three and one hundred nine-b of the general municipal law shall not apply to an energy performance contract for which a written request for proposals is issued pursuant to subdivision six of this section.
7. In the case of a school district or a board of cooperative educational services, an energy performance contract shall be developed and approved pursuant to the requirements of this section and pursuant to regulations promulgated by the commissioner of education in consultation with the New York state energy research and development authority. Such regulations shall include, but shall not be limited to: a list of the appropriate type of projects that qualify as energy performance contracts; an approval process that includes review of the type and nature of the proposed project, the scope and nature of the work to be performed, and a detailed breakdown of the energy savings to be derived each year and for the duration of the energy performance contract; and a process for ensuring that districts have obtained financing at the lowest cost possible. Such regulations shall require that all energy performance contracts which contain maintenance and monitoring charges as part of the energy performance contract price state such maintenance and monitoring charges separately in the contract in a clear and conspicuous manner. Such regulations shall not apply to energy performance contracts entered into prior to the effective date of such regulations, nor shall they apply to energy performance contracts for which a request for proposals was issued prior to such effective

SECTION IV - VENDOR BACKGROUND QUESTIONNAIRE

RFP NUMBER

DUE DATE:

This questionnaire has been developed to collect information from vendors/contractors wishing to do business with the Town of Clifton Park.

Please complete the questionnaire carefully, answering all questions accurately. Answers **must be typewritten or printed in black or blue ink**. If you need more space to answer a question, **type or print the answer on company letterhead** and attach it to the questionnaire. **ANSWER ALL QUESTIONS - DO NOT LEAVE BLANKS**. Failure to submit a complete and accurate questionnaire may result in your bid or proposal being rejected as non-responsive and, therefore, ineligible for award.

GENERAL INFORMATION Initial Application: YES NO Revision: YES NO

- 1. Submitting Business Name _____
 EIN/SSN _____
 Dun & Bradstreet # _____
 "Doing Business As" Name(s), if any _____
 Business Address and date business _____
 located at this address _____
 Other business addresses, if any (satellite _____
 offices, plants, warehouses, branch offices _____
 headquarters, etc.) _____
 Mailing address, if different from above _____

 Telephone Number _____
 Fax Number _____
 E-Mail _____
 Contact Person and Title _____

2. Does this business now, or has it in the past 10 years, used an EIN, SSN, Name, Trade Name or abbreviation other than those given in the above question? YES NO If YES, please provide details and explain: _____

3. Has this business changed address(es) in the past five years? YES NO . If YES, please provide all complete former addresses:

- 4. a. Date business was formed _____
 b. Date business was incorporated _____

5. Type of Organization (Please circle one)

- a. Business Corporation
State/County in which incorporated _____
Name of individuals/entities incorporating business _____
- b. Sole Proprietorship
- c. General Partnership/ Limited Partnership
State or County where partnership certificate/agreement is filed _____
- d. Joint Venture
- e. Non Profit
- f. Not for Profit
- g. Other (Explain) _____

6. Type of Business (Please circle one)

- a. Manufacturing
- b. Distribution
- c. Retail
- d. Commercial Service
- e. Professional Service, Non Construction, Non-Law
- f. Bank
- g. Construction Manager
- h. Architect
- i. Engineer
- j. General Contractor
- k. Consultant (Specify) _____
- l. Laboratory Testing and Analysis
- m. Law Firm
- n. Other (Explain) _____

7. Has this business been certified by a government entity (SBA, NYC, etc.) as a Minority Business, Women-Owned Business, Disadvantaged Business or Small Business Enterprise? YES , NO . If YES, please explain. _____

a. Do you perform outreach to any of these Enterprises to perform subcontracting work? YES , NO

b. Will you use one of these Enterprises as a subcontractor on work performed for the Town of Clifton Park? YES , NO If YES, explain. _____

BUSINESS HISTORY

8. Was this business purchased as an existing business by its present owners? YES , NO
If YES, please provide date of purchase and name(s) of previous owner(s).

9. Does this business own , rent , or lease its office facilities? **(Please check one)**
If leased or rented, please provide name, address, and telephone number of building owner/
landlord. _____

10. Does this business share office space, staff, equipment, or expenses with any other business
or not-for-profit organization? YES , NO If YES, please provide the name and address
of the other entity and nature of relationship to this business. _____

11. Will this business use or occupy any real property, other than the addresses listed in response
to Question 1. to carry out the terms of any contract you may receive from the Town of Clifton
Park? YES , NO . If YES, please provide details and explain. _____

BUSINESS PRINCIPALS

12. For all proprietors, partners, directors, officers, shareholders of 5% or more of the businesses’
issued stock, any manager or individual who takes part in overall policy making or financial
decisions for the business, and any person in a position to control or direct the businesses’
overall operations, please provide name, home address, date of birth, social security number,
title, percentage of ownership, and business telephone number.

13. Number of Employees _____

14. Is this business now or has it been in the last five years a subsidiary of another business?
YES , NO . In this period, has another business been a partner in this business, or has
another business been affiliated with this business through common ownership,
management or agreement, or has another business owned 5% or more of this business?
YES , NO . If YES, please provide details and explain.

15. Has this business or any other business listed in response to question 14 pledged or
hypothecated 5% or more of its stock to another business or to an individual to guarantee
payment for a debt or obligation? YES , NO . If YES, please provide details and explain.

16. Is this business or any business listed in response to question 14 now or has it been in the last five years:
- The owner of 5% or more or in control of another business, an affiliate or a subsidiary? YES , NO
 - A vendor of or contractor to the Town of Clifton Park? YES , NO
 - A subcontractor on any contract with the Town of Clifton Park? YES , NO .
- If YES to any above, please provide details and explain. _____
17. Are any of the persons listed in answer to question 12 now or have been in the past, elected or appointed officials or officers or employees of the Town of Clifton Park? YES , NO
- If YES, please provide details and explain. _____
-
18. Has this business or any business listed in response to question 14 at present or has it ever been:
- Debarred by any agency* from entering contracts? YES , NO .
 - Found not responsible by any government agency? YES , NO .
 - Declared in default and/or terminated for cause on any contract, and/or had any contract cancelled for cause? YES , NO .
 - Suspended by any government agency from entering any contract with it? YES , NO .
 - Party to any action pending that could formally debar or otherwise effect this business' ability to bid or propose on contracts? YES , NO .
 - A respondent before the Grand Jury or any Federal, State or Town Board? YES , NO
 - Unable to execute a contract with a government agency because it could not provide the required security or obtain a surety bond? YES , NO .
 - Required to pay liquidated damages on a contract? YES , NO .
 - In default on any obligation to, or subject to any unsatisfied judgment or lien obtained by a government agency, including judgments based on taxes owed? YES , NO .
 - Filed a bankruptcy petition or been subject to any involuntary bankruptcy proceedings? YES , NO .
 - Subject of termination for cause or revocation of permits, licenses, concessions, franchises, or leases? YES , NO .
 - Subject of a criminal investigation** or civil anti-trust investigation by any Federal, State or Local prosecutorial or investigative agency? YES , NO .
 - Subject of an investigation by any government agency, including regulatory agencies (Security Exchange Commissions, Federal Communications Commission, Department of Consumer Affairs, etc.) YES , NO .

If you answered YES TO ANY OF THE QUESTIONS IN ITEM 18, please provide details including dates, agency/entity names, and disposition _____

* Government agency includes Town, State and Federal Public Agencies, quasi-public agencies, authorities and corporations, public development corporations and local development corporations.

** An investigation includes an appearance before a grand jury by a person or representatives of a business entity, any oral or written inquiry or review of documents by a public agency, temporary commission or other investigative body, or questioning concerning the general operation or a specific project or activities of business entity or the activities of a person.

19. In the last five years, have any of the persons listed in response to question 12:
- a. Been the subject of an investigation involving any alleged violation of criminal law?
 - b. YES , NO .
 - c. Been arrested, indicted or named as an unindicted co-conspirator in any indictment or other legal instrument? YES , NO .
 - d. Been convicted, after trial or by plea, of any felony under State or Federal Law?
 - e. YES , NO .
 - f. Been convicted of any misdemeanor involving business-related crimes?
 - g. YES , NO .
 - h. Entered a plea of nolo contendere in a legal proceeding? YES , NO .
 - i. Entered a consent decree? YES , NO .
 - j. Been granted immunity from prosecution for any business-related conduct constituting a crime under State or Federal Law? YES , NO .

If you answered YES TO ANY OF THE QUESTIONS IN ITEM 19, please provide details including dates, agency/entity names, and disposition _____

20. Has any person listed in response to question 12 been employed by or affiliated with any person or business that has:
- a. Been the subject of an investigation involving any alleged violation of criminal law? YES , NO .
 - b. Been arrested, indicted or named as an unindicted co-conspirator in any indictment or other legal instrument YES , NO .
 - c. Been convicted, after trial or by plea, of any felony under State or Federal Law? YES , NO .
 - d. Been convicted of any misdemeanor involving business-related crimes? YES , NO .
 - e. Entered a plea of nolo contendere in a legal proceeding? YES , NO .
 - f. Entered a consent decree? YES , NO .
 - g. Been granted immunity from prosecution for any business – related conduct constituting a crime under State or Federal Law? YES , NO .

If you answered YES TO ANY OF THE QUESTIONS IN ITEM 20, please provide details including dates, agency/entity names, and disposition _____

21. Has this or any business listed in response to question 14 or any person listed in response to question 12 failed to pay any applicable Federal, State or Local government taxes for the past five years? YES , NO . If YES, explain _____

22. In the past five years, has this or any business listed in response to question 14 or any person listed in response to question 12 committed any act of collusion, bid rigging or price fixing in submitting a competitive bid? YES , NO .

If YES, explain _____

23. Licensing: List jurisdiction and trade categories in which your organization is legally qualified to do business (if applicable), and attach legible copies of registrations and/or licenses.

Jurisdiction	Trade Category
_____	_____
_____	_____
_____	_____
_____	_____

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SECTION V

TOWN OF CLIFTON PARK

SERVICES CONTRACT

CONTRACT NUMBER _____

1. THE TOWN OF CLIFTON PARK HEREBY NOTIFIES

Vendor: _____
Address: _____

Contact: _____
E-Mail: _____
Phone: _____ **Fax:** _____

2. THAT YOUR PROPOSAL DATED _____ TO PROVIDE:

HAS BEEN ACCEPTED AND YOU ARE HEREBY DIRECTED TO FURNISH SAME IN ACCORDANCE WITH THE TERMS DESCRIBED HEREIN.

3. TERM

You shall commence the above services on or about _____

and complete such services on or before _____.

_____ If checked (X), the Town has the option of renewing this contract under the same terms and conditions for one additional year upon written notice to the Contractor.

4. YOUR COMPENSATION for the above services, shall not exceed \$_____, and shall be calculated based on the rates listed in the attached cost proposal and shall cover all professional time and costs unless otherwise stated herein.
-

5. YOU may refer any questions related to this Contract to the following Project Manager:

Name: _____
Address: _____

E-mail: _____
Phone: _____ **Fax:** _____

6. To receive payments, YOU SHALL SUBMIT an itemized invoice in a form acceptable to the TOWN OF CLIFTON PARK to the attention of the Project Manager identified in item 5 above with a copy to ACCOUNTS PAYABLE, One Town Hall Plaza, Clifton Park, New York 12065. CLIFTON PARK shall not issue final payment until satisfied that this contract has been substantially completed. Upon acceptance of the final payment, Contractor releases CLIFTON PARK from any and all claims in any way connected to this Contract. This Contract shall be deemed executory only to the extent of money available to CLIFTON PARK for the performance of the terms hereof and no liability on account thereof shall be incurred by CLIFTON PARK beyond funds available and authorized for the purpose.
7. **YOU SHALL SIGN PAGE 3 AND RETURN THREE SIGNED ORIGINALS** of this contract to the TOWN OF CLIFTON PARK, One Town Hall Plaza, Clifton Park, New York, 12065, Attention: _____. The TOWN OF CLIFTON PARK shall provide you with a fully executed contract.
8. USE OF THE TERM “CLIFTON PARK” or “THE TOWN” means THE TOWN OF CLIFTON PARK. The Term “Contract” means and includes any and all of the following: 1) Contractor's Proposal as accepted by CLIFTON PARK, 2) Schedule “A” Standard Rider to Contracts, and 3) the Request for Proposal document. The term “Work” means the work and or materials specified and the obligations imposed upon the Contractor under this Contract. The term “Contractor” means the person, vendor, firm, or corporation to whom the Contract is awarded.

(To be entered by Mayor's Office)

AGREED TO AND ACCEPTED THIS DAY OF _____,
Month / Day / Year

(The three lines below to be completed by Contractor
when they submit their quotation/proposal)

PHIL BARRETT, SUPERVISOR

Contractor

*Title of Authorized Representative of
Contractor*

*Signature of Authorized Representative of
Contractor*

APPROVED AS TO FORM

CLIFTON PARK TOWN ATTORNEY

TO BE COMPLETED BY TOWN OF CLIFTON PARK

DATE OF TOCP APPROVAL:

INITIATING DEPARTMENT:

Office of the Supervisor

SCHEDULE "A"

STANDARD RIDER TO CONTRACTS FOR THE TOWN OF CLIFTON PARK

SECTION 1 - CHANGE ORDERS/ AMENDMENTS

Changes or extra work, beyond Work specified under the Contract, may be authorized only by a written change order or by amendment issued by CLIFTON PARK and approved by the Board of Contract and Supply, if required.

SECTION 2 - ORDER TO PROCEED

Delivery to the Contractor of a fully executed copy of this Contract shall constitute authorization to proceed with Work, unless otherwise provided. If otherwise provided, CLIFTON PARK will issue an order to proceed in writing that will set forth the date upon which Work is to commence. All orders to proceed are subject to Contractor's compliance with the insurance requirement if required herein.

SECTION 3 - PROGRESS AND COMPLETION

Time limits provided in the Contract are of the essence. By executing the Contract, the Contractor confirms that the Contract time is a reasonable period for performing the Work. The Contractor shall proceed expeditiously with adequate work force and shall complete the work within the period specified under the Contract in a satisfactory and proper manner, as determined by The Town, according to professional industry standards.

SECTION 4 - DELAYS AND EXTENSIONS OF TIME

If the Contractor's Work is delayed by an act of CLIFTON PARK or by another contractor employed by CLIFTON PARK or by changes ordered by CLIFTON PARK in the Work, or by labor disputes, actions or inactions by the Public Service Commission or utility, or other causes beyond the Contractor's control, or by delay authorized by CLIFTON PARK, then the Contract time shall be extended by Change Order or Amendment for such reasonable time as CLIFTON PARK may determine.

SECTION 5 - TERMINATION

CLIFTON PARK may terminate the Contract prospectively upon five (5) days written notice for any reason whatsoever, including but not limited to, Contractor's failure to perform the Work in a timely manner or to perform the Work in accordance with the terms and conditions of the Contract. However, CLIFTON PARK may, upon determining that Contractor's performance hereunder will endanger the public health or safety, terminate the contract immediately. Notwithstanding the above, the Contractor shall not be relieved of liability to the Town for damages sustained by the Town by virtue of any breach of the Contract by the Contractor and the Town may withhold any payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due the Town from the Contractor is determined.

SECTION 6 – PAYMENTS

Full payment, in the amount shown in Item 4 of Page 29 of this RFP, will be made after satisfactory completion of the services and tasks described in the Scope-of-Work herein and within 30 days of receipt of a proper invoice by CLIFTON PARK. Acceptance of final payment by the Contractor shall constitute a waiver of any claims arising from this Contract by contractor against CLIFTON PARK.

Notwithstanding the foregoing, it is understood that the Town operates on a fiscal year basis that begins on July 1st and ends on June 30th of each year. The Town shall not be considered to be in default under this Agreement if any payments are due after the beginning of a fiscal year when the Town's budget has not been approved for that fiscal year unless the non-payment continues after 31 October in any year.

SECTION 7 - EXECUTORY CLAUSE

In accordance with Section C5-9 of the Charter of the Town of Clifton Park and Local Finance Law of New York State, CLIFTON PARK shall have no liability under this Contract to the Contractor or to anyone else beyond funds appropriated and available for this Contract.

SECTION 8 - INDEMNIFICATION

In addition to any liability or obligation of the Contractor to CLIFTON PARK that may exist under this Contract or by statute or otherwise, Contractor shall indemnify and hold CLIFTON PARK and its directors, officers and employees, harmless from and against any damages, costs, claims or liabilities which CLIFTON PARK may sustain, as a result of: any and all liabilities, losses, damages, interests, judgments, liens, costs and expenses (including without limitation, reasonable counsel fees and disbursements), claims, demands, suits, actions, or proceedings which may be made or brought against CLIFTON PARK for or in relation to any personal injury or property damage caused by the negligent acts or omissions of the Contractor.

SECTION 9 - INSURANCE

Neither the Contractor nor any of its subcontractors shall commence Work under this Contract until the Contractor has delivered certificates of insurance evidencing the insurance required by this Section and bearing notations evidencing the payment of premiums and coverage and amounts approved by CLIFTON PARK.

Required coverage for Services are indicated by a :

- (a) The Contractor shall provide Worker's Compensation Insurance and Employer's Liability Insurance as required under the Worker's Compensation Law.
- (b) Without limiting or restricting the provisions of Section 8, the Contractor shall maintain Commercial General Liability Insurance, listing CLIFTON PARK as an additional insured, in the minimum amount of \$1,000,000 in the aggregate, \$500,000 each incident, with a company or companies licensed in New York State with an A or better Best Rating.

The Certificate of Insurance for the above coverage **must include the CLIFTON PARK Contract number**, bear a notation evidencing a **minimum of 10-day cancellation notice** to CLIFTON PARK, and **list the Town of Clifton Park as an additional insured**.

- (c) Without in any way limiting or restricting the provisions of Section 8 hereof, where professional services are to be performed under this Contract, the Contractor shall carry Professional Liability Insurance in the aggregate amount of \$1,000,000, \$1,000,000 per claim, with a company or companies licensed in New York State with an A or better Best Rating and in a form satisfactory to CLIFTON PARK.

In the event you receive notice from any third party that a cause of action or claim may be initiated against the Town of Clifton Park in connection with this agreement, Contractor agrees to give immediate written notice of same by certified mail, return receipt requested, to: (i) the Clifton Park Purchasing Department at the above address, Attn: Purchasing Director and to (ii) the Corporation Counsel's Office, Town Hall, Room 300, Clifton Park, New York, Attn.: Corporation Counsel.

SECTION 10 - RECORDS AND ACCOUNTS

Contractor shall maintain accurate records and accounts of services under this Contract and shall furnish or make available such records and accounts or other information as may be required to substantiate any report or invoice submitted to CLIFTON PARK for payment.

SECTION 11 - OWNERSHIP OF MATERIALS

Upon completion of the Work, or upon termination of this Contract pursuant to Section 3 and 5 of this Schedule A, all products and materials, including software, collected and prepared pursuant to this Contract, shall become the exclusive property of CLIFTON PARK, shall be delivered to CLIFTON PARK (preliminary, final or otherwise), and any and all rights of Contractor to such materials shall immediately be extinguished. CLIFTON PARK shall have the sole and exclusive right to use such materials in any way it chooses.

SECTION 12 – ASSIGNMENT

Contractor shall not assign, transfer, or otherwise dispose of its rights, privileges, or responsibilities under the terms of this Contract, without CLIFTON PARK' prior written consent. In the event there is no prior written consent from CLIFTON PARK, such transfer, assignment, or other disposition shall be void.

SECTION 13 - CONFLICTS OF INTEREST

The Contractor represents that:

- (a) The Contractor has not now, and will not acquire, any interest, direct or indirect, present or prospective, in the project to which the Contractor's work relates or the real estate which is the subject of the project, or in the immediate vicinity thereof and has not employed nor will knowingly employ in connection with work to be performed hereunder any person or entity having any such interest during the term of this Contract.
- (b) No officer, employee, agent or director of CLIFTON PARK, shall participate in any decision relating to this Contract which affects his/her personal interest or the interests of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any officer, agent, director or employee of CLIFTON PARK have any interest, direct or indirect, in this Contract.

(c) The Contractor shall cause, for the benefit of CLIFTON PARK, every contract with any subcontractor to include the representations contained in subsections (a) and (b) of this Section. The Contractor will take such action in enforcing such provisions as CLIFTON PARK may direct, or, at its option, assign such rights as it may have to CLIFTON PARK for enforcement by CLIFTON PARK.

SECTION 14 - MACBRIDE FAIR EMPLOYMENT PRINCIPLES

In accordance with ARTICLE VI OF THE CODE OF THE TOWN OF CLIFTON PARK the bidder, by submission of this bid, certifies that if it or any individual or legal entity in which the bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the bidder: has business operations in Northern Ireland, such bidder, shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

SECTION 15 - EEO POLICY STATEMENT

The Contractor shall, in all solicitations, or advertisements for employees placed by or on behalf of the Contractor, state that it is an Equal Opportunity or Affirmative Action employer.

1. Minority and Women-Owned Business Enterprises

The Contractor shall use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performances of this contract. As used in this Contract, the term “minority and woman-owned business enterprise” means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Contractor may rely on written representations by subcontractors regarding their status as minority and female business enterprises in lieu of an independent investigation.

SECTION 16 - CIVIL RIGHTS

The Contractor agrees to comply with the Town of Clifton Park’ and the State of New York’s civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1976, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086. See Exhibit 1 for contractors.

SECTION 17 - NON-DISCRIMINATION CLAUSE

The Contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age marital status, or status with regard to public assistance. The Contractor will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to

employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this non-discrimination clause.

SECTION 18 – MATERIALS AND WORKMANSHIP

The Contractor hereby agrees and guarantees that all work furnished under the Contract will conform to the terms of this Contract, as to kind, quality, function, design and characteristics of materials and workmanship, such conformance shall continue for one year from the date of completion or the Contractor shall replace any defective material or workmanship without cost to CLIFTON PARK.

Contractor agrees that all reports, plans, studies and other documents and materials (including underlying data) and all recommendations, whether written or oral, developed in the course of providing the Work, are confidential between Contractor and CLIFTON PARK, and except as specified herein, Contractor may not reveal or disclose such work product, without permission from CLIFTON PARK, or unless ordered by a court of competent jurisdiction. No information or material shall be disseminated to the general public, the news media, or any person or organization prior to express approval by the Corporation Counsel.

SECTION 19 – SAFETY

The Contractor shall provide at his own cost and expense such safety devices for the protection of its employees, and those of the Subcontractor(s), The Town of Clifton Park, the public, and any other persons as may be necessary and as may be required by the Project Manger. The Contractor shall perform all work in a safe manner and in compliance with OSHA, EPA, DEP, and all other applicable Federal, State, and local laws, rules, and regulations.

SECTION 20 – WASTE REMOVAL/CLEAN-UP

The Contractor shall remove all waste material in connection with the Work from the property of The Town of Clifton Park. All waste material in connection with the Work shall become the property of the Contractor and shall be disposed of in keeping with all applicable Federal, State, and local laws, rules, and regulations. The Contractor shall, on a daily basis, thoroughly clean and keep clean the work site, all roadways, sidewalks, and other indoor and outdoor areas in connection with this Work.

SECTION 21 - LABOR LAW

If this Contract involves the employment of laborers, workmen or mechanics under Articles 8 or 9 of the Labor Law or constitutes a building service contract covered by Article 9 thereof, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days set forth therein, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the New York State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the New York State Labor Department in accordance with the Labor Law.

SECTION 22 – CONTRACTOR'S STATUS

It is understood that the Contractor is an independent Contractor and is not to be considered an employee of the Town, or assume any right, privilege, or duties of any employee, and shall save harmless the Town and its employees from claims, suits, actions and costs of every description resulting from the Contractor's errors, omissions, or gross negligence in the performance of this Agreement.

SECTION 23 – CERTIFICATION OF NON-COLLUSION

If this Contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to CLIFTON PARK a non-collusive bidding certification on Contractor's behalf.

SECTION 24 – ENTIRE AGREEMENT

This Contract, with its schedules and exhibits, integrates all agreements, representations and warranties prior to the date hereof, whether oral or written, between the parties, and constitutes the entire Contract between the parties hereto.

SECTION 25 – GOVERNING LAW

This Contract shall be construed in accordance with the laws of the State of New York.

SECTION 26 – COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

SECTION 27 - CONFLICTING TERMS

In the event of a conflict between the terms of this Contract (including any and all attachments thereto and amendments thereof) and the terms of this Rider, the terms of this Rider shall govern.

SECTION 28 - DISSEMINATION OF INFORMATION

No information concerning Contractor's work and services performed under this contract shall be disseminated to the general public, the news media, or any other person or organization, including public officials, prior to express approval by the Town of Clifton Park.

SECTION 29 - PROPRIETARY INFORMATION OF CONTRACTOR

Clifton Park shall take reasonable steps to prevent the unauthorized disclosure of any information that is marked "Confidential" or "Proprietary" by Contractor. Confidential information shall not include information which: (a) is or becomes public knowledge through no fault of the recipient; (b) was in the recipient's possession before receipt from the party providing such confidential information; (c) is rightfully received by the recipient from a third party without any duty of confidentiality; (d) is disclosed to a third party by the party providing the confidential information without a duty of confidentiality on the third party; (e) is independently developed by the recipient; (f) is disclosed under operation of law; or (g) is disclosed with the prior written approval of the third party providing such confidential information.

SECTION 30 - INTELLECTUAL PROPERTY INDEMNITY

Contractor shall defend, indemnify and hold harmless Clifton Park if any product or material that is provided to Clifton Park is alleged to infringe upon a third party's intellectual property rights. To avoid infringement, Contractor may modify or substitute an equivalent product (provided Clifton Park approves of such substitution at its sole discretion), refund the price paid for the product (less the reasonable rental value for the period it was available to Clifton Park), or obtain any necessary licenses.

SECTION 31 – NOTICES

Any notice, demand, consent, approval or request (collectively “notices”) which may be or is required to be given under this Contract or by law must be in writing and signed and shall be either (i) delivered by hand (with a signed receipt), (ii) delivered by nationally recognized overnight courier, or (iii) sent by certified mail or registered mail, postage prepaid, return receipt requested to the parties at the following addresses: (a) if to the Town, to the Corporation Counsel's Office, at Town Hall, Third Floor, Clifton Park, New York 10701 with a copy to Purchasing Director, at Town Hall, First Floor, Clifton Park, New York 10701 and (b) if to Vendor, at Vendor's address set forth above, or at such other address as Vendor may designate in writing. Unless otherwise specified herein, all such notices, properly addressed, will be deemed given and received on the date of delivery or refusal thereof.

SECTION 32 - AUTHORITY TO DO BUSINESS IN NEW YORK

Any corporation not incorporated under the Laws of New York State must furnish a copy of its Certificate of Authority from the New York State Secretary of State to do business in the State of New York, in accordance with Article 13 of the New York State Business Corporation Law. You may get additional information at: Department of State, Division of Corporations, 41 State Street, Albany, NY 12231 (518-473-2492).



SECTION VI
INTENT TO SUBMIT PROPOSAL FORM
REQUEST FOR PROPOSAL NO. 1 – DUE DATE: January 18, 2018 at 12:00: P.M.
ENERGY EFFICIENT STREETLIGHT CONVERSION PROJECT

Please complete and return this form via fax or email if you wish to receive notification of questions or addenda received by the Town.

Town of Clifton Park
Attn: Town Clerk
One Town Hall Plaza
Clifton Park, New York 12065
518-371-1156 (Fax)
Tmccarthy@CliftonPark.org (e-mail)

Failure to return this form may result in no further communication or addenda regarding this RFP. Proposers are reminded that they are responsible for obtaining all addenda.

This solicitation and all addenda will be posted on the New York State Contract Reporter website at <https://www.nyscr.ny.gov/>

Company Name:

Address:

Town:

State:

Zip Code:

Contact Person:

Phone Number:

Fax Number:

Email:

We will be submitting a Proposal

We will be attending the Pre-Proposal Conference: Yes # of Attendees: No

We will not be submitting a Proposal

Reason:

Exhibit 1
Contractors, Subcontractors, Suppliers, and Manufacturers

- A. During the performance of this contract, the contractor, for itself, its assignees and successors in (hereinafter referred to as the “contractor”) agrees as follows:

1. Compliance With Regulations

The contractor (hereinafter includes consultants) shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq., 78 stat. 252) (hereinafter referred to as the Acts) and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter USDOT), Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Non-discrimination

The contractor, with regard to the work performed during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project or program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, including Procurement of Materials and Equipment

In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to the Non-discrimination on the ground of race, color, sex, or national origin.

4. Information and Reports

The contractor shall provide all information and reports by the Acts, Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Town of Clifton Park or the New York State Department of Transportation (hereinafter NYSDOT) to be pertinent to ascertain compliance with such Acts, Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Town, or the NYSDOT as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance

In the event of the contractor's noncompliance with the Non-discrimination provisions of this contract, the Town of Clifton Park, and the NYSDOT shall impose such contract sanctions as it, or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the contractor under the contract until the contractor complies, and/or;
- b. cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions

The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the Town or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Town enter into such litigation to protect the interests of the Town and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

- B.** During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (45 U.S.C. §4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. §324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794 et seq), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. §6101 et seq.), (prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 USC §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Title II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. §47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.)