



**“Electric Vehicle Supply Equipment (EVSE) Demonstration Program”
Program Opportunity Notice PON 2301
Approximately \$4 million Available**

Round 1 Proposals Due: December 14, 2011 by 5:00 PM Eastern Time*

Round 2 Proposals Due: August 22, 2012 by 5:00 PM Eastern Time*

The Electric Vehicle Supply Equipment (EVSE) Demonstration Program (the Program) seeks to accelerate vehicle electrification in New York through demonstration projects that validate innovative technologies to supply electricity to these vehicles. NYSERDA will support the demonstration of vehicle charging equipment through up to two funding rounds of this PON.

PON 2301 seeks project applications for EVSE demonstration projects in New York in the following three categories:

- A. Installation and evaluation of EVSE at public locations such as the following: supermarkets, malls and retail outlets, train stations, hotels, restaurants, and parking garages and parking lots where the EVSE is open to the general public and will be used by a wide variety of users.
- B. Installation and evaluation of EVSE at private business locations where employees of the business will use the EVSE for personal vehicles, townhouse communities or large apartment, condo, or rental communities, where employees and residents or the public will use the EVSE to charge personal vehicles and may be used by a select group of users who maintain a vehicle at this location. EVSE located at residential parking areas or garages directly associated with five or fewer residences are not eligible.
- C. Installation and evaluation of EVSE at business locations for use by business-owned fleet vehicles. As an example, one potential project could be installing EVSE to charge a delivery company’s PEV trucks at their depot where the EVSE is not accessible to the general public.

Demonstration projects must measure and evaluate EVSE usage and incorporate innovative project elements, such as vehicle to grid (V2G) applications, smart charging, reservation systems and demand response charging.

Proposal Submission: Proposers must submit one (1) hard copy of the proposal with a completed and signed Proposal Checklist attached to the front, which must contain an original signature, and one (1) copy of the proposal documents on a CD. Proposals must be clearly labeled and submitted to:

**Roseanne Viscusi, PON 2301
NYS Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399**

If you have technical questions concerning this solicitation, contact Patrick Bolton at (518) 862-1090, ext. 3322 or ppb@nyserda.org or Adam Ruder (518) 862-1090, ext. 3411 or ar3@nyserda.org. If you have contractual questions concerning this solicitation, contact Nancy Marucci at (518) 862-1090, ext. 3335 or nsm@nyserda.org.

No communication intended to influence this procurement is permitted except by contacting Patrick Bolton (Designated Contact) at (518) 862-1090, ext. 3322 or ppb@nyserda.org. Contacting anyone other than this Designated Contact (either directly by the proposer or indirectly through a lobbyist or other person acting on the proposer’s behalf) in an attempt to influence the procurement: (1) may result in a proposer being deemed a non-responsible offerer, and (2) may result in the proposer not being awarded a contract.

*Late proposals will be returned. Incomplete proposals may be subject to disqualification. It is the proposer’s responsibility to ensure that all pages have been included in the proposal. Faxed or e-mailed proposals will not be accepted. Proposals will not be accepted at any other NYSERDA location other than the address above. If changes are made to this solicitation, notification will be posted on NYSERDA’s web site at www.nyserda.org

INTRODUCTION

The objective of the Electric Vehicle Supply Equipment (EVSE) Demonstration and Support Program (the Program) is to accelerate vehicle electrification and advance the use of innovative technologies to supply electricity to these vehicles in New York, leading to significant petroleum and air emission reductions.

The performance, cost, and convenience of using oil as the exclusive fuel within the transportation sector are now being contested by electric technologies, such as plug-in electric vehicles (PEVs). PEVs, which include all-electric vehicles and plug-in hybrid electric vehicles, provide an opportunity for reducing oil consumption and emissions by drawing power from the electric grid. Establishing a PEV infrastructure framework, to provide access to electric charging for these vehicles, will also create new opportunities for business and job development as the state moves toward electrified transportation. To maximize the benefits of PEVs, the emerging EVSE infrastructure (including the basic charging equipment and the communication and control connections between the vehicle and the grid) must provide access to clean electricity, satisfy stakeholder and vehicle owner expectations, and ensure safety. A number of EVSE manufacturers and operating companies have recently introduced products and business models for deploying EVSE. Through this PON, NYSERDA seeks demonstration projects that will identify successful technologies, customer interfaces, and business models. Further, it is expected that increased EVSE deployment and availability to drivers will help make consumers more comfortable with purchasing PEVs.

Technology and market transitions that allow for widespread use of PEVs are significant but not insurmountable if comprehensive implementation plans are created that account for the needs of various stakeholders. A number of questions remain unanswered about how best to deploy EVSE and what the economic, environmental, and energy impacts may be from widespread deployment. Significant work needs to be done to collect data on early demonstration EVSE projects and review codes and standards regarding EVSE infrastructure deployment to answer these questions.

PON 2301 seeks projects to demonstrate innovative EVSE deployment opportunities located in New York State, with a total funding available of approximately \$8 million and a cap of \$1,000,000 per project for the installation and evaluation of EVSE at locations as described below in Project Categories. NYSERDA anticipates allocating this funding in increments of approximately \$4 million per round of the PON. NYSERDA may allocate the total funding available in the first round of the program if NYSERDA approves a sufficient number of projects to use all of the available funding. Projects must incorporate at least one of the following elements: vehicle to grid (V2G) applications; smart charging such as demand response charging; time of day and staggered charging; connection to distributed generation that will be used to charge the vehicles (the installation of distributed power generation is not an eligible expense); aggregation of V2G applications through an Energy Services Company (ESCO); parking space reservation systems such as online and through cell phones; and innovative payment systems (see section 1.6 for definitions of these elements). The Program will not provide funding for product development.

Eligible Proposers. Funding is available to the following entities: incorporated nonprofit entities, corporations, limited liability companies or partnerships and public entities such as counties, villages, towns and cities. Individuals are not eligible to apply. The program will not pay for EVSE located in single households or apartment or condo complexes of less than 6 residences.

1.0 PROJECT CATEGORIES

Eligible project activities are broken out into three categories:

- A. Installation and evaluation of EVSE at public locations such as the following: supermarkets, malls and retail outlets, train stations, hotels, restaurants, and parking garages and parking lots where the EVSE is open to the general public and will be used by a wide variety of users.
- B. Installation and evaluation of EVSE at private business locations where employees of the business will use the EVSE for personal vehicles, townhouse communities or large apartment, condo, or rental communities, where employees and residents or the public will use the EVSE to charge personal vehicles and may be used by a select group of users who maintain a vehicle at this location. EVSE located at residential parking areas or garages directly associated with five or fewer residences are not eligible.

- C. Installation and evaluation of EVSE at business locations for use by business-owned fleet vehicles. As an example, one potential project could be installing EVSE to charge a delivery company's PEV trucks at their depot where the EVSE is not accessible to the general public.

Projects in Categories A, B, and C are eligible to receive funding for up to 65% of total eligible project costs, up to \$1 million per proposer.

Eligible costs include EVSE charging equipment, electric supply and metering equipment, electrical conduit and wiring; directly related site work such as: patching pavement that had to be torn up to install conduit and concrete slabs for EVSE installation; posts and bollards for EVSE protection; electric service upgrades necessary to support the EVSE; direct installation-related labor; and any other equipment that NYSERDA determines is necessary to properly connect the EVSE to an electric supply, the cost of general permitting and engineering directly related to the installation of the equipment, and project management and project reporting costs. Proposals that limit administrative costs (permitting, engineering, project management, and reporting) will be scored higher in evaluations.

Site work not directly related to the installation of the equipment is not eligible under the Program for reimbursement or as cost-share. Examples of work or equipment that are not eligible for reimbursement are upgrades to buildings, general site paving, general aesthetic site work such as flower beds, solar photovoltaic systems or wind electric generation systems, distributed electric generation equipment and any other equipment not directly related to the EVSE equipment and the connection of the EVSE equipment into an electric supply. Ineligible costs cannot be used to cover the minimum required cost share towards eligible costs.

NYSERDA will not reimburse for costs incurred before the date of contract execution.

1.1 PROJECT REQUIREMENTS

The following are requirements for the project proposal:

1. The proposal must clearly indicate the submission category (Category A, B, or C) on Attachment A.
2. Proposals must incorporate least one of the following elements: vehicle to grid (V2G) applications; smart charging and demand response charging activities controlled through the EVSE; time of day and staggered charging; connection to distributed generation that will be used to charge the vehicles (the installation of distributed power generation is not an eligible expense); aggregation of V2G applications through an Energy Services Company (ESCO); parking space reservation systems such as online and through cell phones; and innovative payment systems. Proposals containing at least one of the aforementioned elements or an additional innovative application, location, or business model not mentioned in the previous list, are of potential interest to NYSERDA. The program will not pay for product development. (See section 1.6 for definitions.)
3. All proposals must include a usage plan listing the anticipated number of vehicles using the EVSE and estimated hours of charging per week. Please include documentation to support the estimation (e.g. letters of commitment/copies of correspondence from fleet or vehicle owners or other potential users).
4. All proposals must include a detailed breakdown of all costs including the cost of installation, and a breakdown of any subcontractors and their costs, and all cost-share from all partners.
5. All proposals must include a data collection and reporting plan that explains the proposed process for collecting data from the installed EVSE and how the collected data will be submitted to NYSERDA (see Section 1.4 Reporting for more details). Data collection plans that include automated electronic data transfer are preferred.
6. All proposals must include a schedule with a project start and end date and a detailed timeline with milestones to complete the project.

7. Partnerships must be fully described in the proposal and must include letters of support detailing each of the participating entities financial commitment to the project.
8. All proposals must include a detailed proposer profile and resumes from the primary project manager and all project staff.
9. All proposals must include details of what entity will own and maintain the equipment including an equipment disposition plan detailing who will take over ownership and operation of the equipment should the proposer become insolvent or when the demonstration is completed or terminated.
10. All proposals must include a description of the product for which and the process by which consumers will be billed for using the EVSE.

The following are requirements for the EVSE installed as part of this program.

1. The program will pay for level II or level III EVSE devices to serve on-road vehicles. Level I devices are ineligible. Proposers may submit a proposal to install Level III devices, but will not be allowed to proceed until there is an approved NEC and SAE standard (similar in nature to the current level II EVSE standards) for these devices and cord connections, with on-road vehicles available in New York that can accept the standard-compliant level III charge connection. Applicants wishing to install level III devices should describe how they intend to serve EVs that may have a variety of different NEC and SAE compliant cord connections.
2. For each type of EVSE to be purchased, the proposal must include vendor information for each unit type, including the manufacturer, model and unit price.
3. All public-access EVSE units must be code compliant and UL Certified (or equivalent). Documentation of the certifications must be submitted with the proposal. EVSE that are used solely by a fleet of medium- or heavy-duty EVs may be pending UL certification (or equivalent). The EVSE manufacturer must have at least submitted to UL for review and approval by the due date for Round 2 of this PON.
4. EVSE and vehicle communications must be in accordance with NEC 625. EVSE cord connection must be in accordance with SAE J1772.
5. EVSE installations must include a kWh meter. EVSE units must be equipped with a system to identify the vehicle charging at the EVSE and the total number of kWh charged to each vehicle utilizing the EVSE.
6. All resulting publicly accessible EVSE infrastructure in categories A and B must be accessible at least 12 hours per day, 7 days a week, for a period of at least 48 months.
7. All EVSE infrastructure sites must be in New York State and the address of the location the EVSE will be installed must be identified in the proposal.
8. A minimum of two electrified parking spaces (See Section 1.6 Definitions) are required per site in all three category projects. Charging systems should be equipped with or be upgradable to smart grid technology.
9. All installations of EVSE equipment must comply with applicable local and State Environmental, Building, and Fire Codes.

1.2 ELIGIBILITY REQUIREMENTS

Funding is available to the following entities: incorporated nonprofit entities, corporations, limited liability companies or partnerships and public entities such as counties, villages, towns and cities. Individuals are not

eligible to apply. The Program is open to any eligible entity that owns or operates a parking facility that is located in New York or an entity that wishes to place equipment at a parking facility site owned by another entity. The entity that applies must have the legal authority to make improvements to the site at which the EVSE equipment will be located. If the proposer is not the site owner, the proposer must include in the proposal a letter from the site owner acknowledging that it grants legal authority to the proposer to install EVSE equipment at their site, should the proposal be awarded. If the property is leased, the proposer must show proof of legal rights to make improvements to the property. In the lease agreement the proposer must have the right to make and maintain these improvements at the facility for a minimum of 4 years going forward from the time Program funds are paid to the proposer.

NYSERDA must be satisfied with the proposer's financial stability and that sufficient resources exist to address issues before and after installation. Prior to commencement of a contract, the successful proposer may be asked to provide annual financial reports or a set of financial statements prepared by an accountant.

1.3 PROGRAM FUNDING

PON 2301 seeks projects to demonstrate innovative EVSE deployment opportunities located in New York State, with a total funding available of approximately \$8 million and a cap of \$1,000,000 per project for the installation and evaluation of EVSE at locations as described in section 1.0 Project Categories. NYSERDA anticipates allocating this funding in increments of \$4 million per round of the PON. NYSERDA may allocate the total funding available in the first round of the program if NYSERDA approves a sufficient number of projects to use all of the available funding in the first round.

Funds will be allocated on a competitive basis. NYSERDA anticipates awarding funding for multiple projects under this PON. All, some, or none, of the total available funding may be allocated. In its sole discretion, NYSERDA may award partial funding to proposals.

Proposals from entities that own or operate multiple parking facilities in New York State or propose to install EVSE at multiple facilities are encouraged to apply, but no single Proposer can receive more than \$1,000,000.

1.4 REPORTING

Recipients of funds will be required to provide progress reports to NYSERDA during the period of installation and a final report covering all of the work after completion of the project. Reporting requirements will include information such as the resulting impacts from the project such as environmental and energy benefits and related jobs, descriptions of any difficulties encountered during the reporting period, and statements of cost of the work performed during the reporting period. Following completion of the equipment installation, reports must include information pertaining to EVSE usage such as the amount of kWh dispensed and the cost of the electricity and the amount charged to the EVSE customer. These reports must be submitted at least semi-annually for a period of four years after the equipment enters service.

Data Collection: It is a requirement that the EVSE be able to collect data on hours of use, electricity consumed and number of users of the EVSE that is either available to be securely transmitted or that is able to be collected by the proposer directly from the EVSE devices. This information must be shared upon request and as requested in semi-annual reports or directly with NYSERDA's Evaluation Contractor that will assist NYSERDA in project evaluation. Any networking system should be described in clear terms in the narrative section of the proposal. The data security system or protocol should also be explained in the narrative.

All EVSE installed in this project shall be capable of collecting the following data parameters about each charging event:

- Unique ID for Plug-in Event
- Unique ID for Charge Event(s)
- Unique ID Identifying the EVSE – may not change
- Unique ID for the vehicle being charged (via payment or some other method)

- No user specific information is required (Name of vehicle owner or VIN number of vehicles); only understanding of usage patterns (i.e. how many different vehicles are using the station and number of visits for each vehicle)
- Vehicle Connect Time (this is the start of the Plug-in Event)
- Vehicle Disconnect Time (this is the end of the Plug-in Event)
- Charge Start Time (i.e. time stamp when EVSE begins to transfer power)
- Charge End Time (i.e. time stamp when EVSE stops transferring power)
- Average Power (AC kW) per charging event
- Total Energy (AC kWh) per charging event
- 15-Minute Interval Start Time (where the first 15-Minute Interval Start Time is equal to the Charge Start Time)
- 15-Minute Interval End Time (where the last 15-Minute Interval End Time is equal to the Charge End Time; and the last interval may not last the full 15 minutes)
- Rolling 15-Minute Average Power (AC kW, captured for each 15-minute interval)
- Rolling 15-Minute Peak Power (AC kW, captured for each 15-minute interval)
 - All Time Stamps are defined as a year, month, day, hour, minute, and second at the time of each entry. The time zone should be local time for EVSE.

This data must either be able to be securely transmitted via a wireless method or programmable logic controller (PLC) to a centralized database or collected by the Proposer directly from the EVSE and transferred to NYSERDA or NYSERDA's Evaluation Contractor. The Proposer will be responsible for ensuring transfers of charging event data from the central database to NYSERDA or its Evaluation Contractor at no less than weekly intervals if transferred automatically, or monthly intervals if transferred manually.

The Proposer will be required to transmit the collected data directly to NYSERDA's Evaluation Contractor. The Proposer shall use one of the following methods for transferring data to NYSERDA's consultant:

Option 1 (the preferred option): The Proposer will use a 3rd party data collection vendor, such as but not limited to Coulomb Technologies, to provide the required data through the following capabilities if the Proposer does not possess these capabilities:

- Maintaining their own data collection servers for storing charging infrastructure events information
- Managing and conducting the data transfer communications between charging infrastructure (i.e. EVSE units) and data collection servers
- Providing staff to maintain their own data server(s), the data communications process, and their portion of this data collection effort
- Provide a data transfer portal that either allows the Evaluation Contractor to initiate contact and download (i.e. pull) charging infrastructure data or pushes charging infrastructure data to the Evaluation Contractor's server per a fixed, weekly schedule.

EVSE units will transfer the required data to the Proposer or its 3rd party data collection vendor in a single file as weekly data transfers to the Evaluation Contractor via SFTP (Secure File Transfer Protocol). The data will be in CSV (comma separated value) file format.

Option 2: The Proposer will utilize their own method for collecting the EVSE charging event data. The Proposer will present this method to NYSERDA and the Evaluation Contractor for approval before EVSE purchase. This approach could include manual data collection from each EVSE (i.e. manual readouts or data card downloads) or some other semi-automated procedure. The Proposer must include data on all of the required parameters for each charging event for each EVSE since the last data transfer to the Evaluation Contractor as part of a single CSV file. The Proposer will provide this data file to the Evaluation Contractor weekly via SFTP. This method of data collection carries an increased risk of error due to human involvement and will likely have much higher cost than the recommended approach.

1.5 RECAPTURE PROVISION

Entities receiving funds through the Program are required to own and operate the EVSE equipment and submit semi-annual reports to NYSERDA for a minimum of four years from the date the equipment is operational. If the EVSE is operated for any period less than four years or the proposer does not submit the required reports, the funds are subject to recapture by NYSERDA of funding received under the project.

1.6 DEFINITIONS

EVSE - For Electric Vehicle Supply Equipment (EVSE), the actual “charger” is generally installed in the vehicle and the EVSE includes all the equipment needed to safely convey AC grid power (or distributed generation power) to the onboard charger. An essential EVSE component is a “charging station” designed to ensure that a safe connection has been made between the grid and the vehicle, and to communicate with the vehicle’s control system so that electricity flows at an appropriate voltage and current level. EVSE funded under this solicitation must comply with the SAE J1772 (2010 as updated) specification for EVSE connections.

Level I EVSE - A charging method that allows an EV to be connected to the most commonly available grounded electrical outlet (NEMA 5-20) with power levels rated at less than or equal to 120 VAC/20 amps.

Level II EVSE – A charging method that allows an EV to be connected to permanently wired EVSE with a specialized connector (SAE J1772) with power levels rated at less than or equal to 240 VAC/100 amps.

Level III EVSE –Fast charging station providing 200 to 450DC output for a maximum of 60kW capable of charging EV batteries in under 30 minutes.

Electrified Parking Space – A parking space for a single vehicle that has access to a dedicated EVSE cord connection. A dual-head EVSE can generally provide two electrified parking spaces if it is positioned so each cord connection can be accessed by a different parking space.

Smart Charging - A web-based system that collects and can securely transmit data (such as energy consumed, demand charging, time of day charging and other information) and that has revenue grade commerce capacity.

V2G Vehicle-to-grid (V2G) – A system in which electric or plug-in hybrid vehicles communicate with the power grid to sell demand response services by either delivering electricity into the grid or by throttling down their charging rate during periods of high demand or high electric cost.

V2G Vehicle-to-grid Aggregation – Utilizing multiple PEVs in a V2G application to create a large supply of electricity to be sold back to the grid during periods of high demand and recharged during periods of low demand or a system to throttle down the charging of multiple PEV’s to reduce electric load during periods of high demand and or cost. These are typically done through an Energy Service Company (ESCO).

Demand Response - A mechanism to manage customer consumption of electricity in response to supply conditions such as curtailing power used under conditions of tight electricity supply or high pricing thereby reducing the peak demand for electricity. The use of an energy management system to control the EVSE to take advantage of fluctuating prices is of interest to NYSERDA under this PON.

Distributed Generation - A local source of electric generation that is used to replace or supplement electric supply from the grid. Examples include small wind generation, photovoltaic systems, micro-turbines, combined heat and power systems, and fuel cells. The Program will not pay for this equipment, but connecting EVSE to these generation devices is eligible under the program. NYSERDA has an interest in collecting data on whether these types of equipment can be used in a cost efficient manner to charge PEVs.

Smart Grid Integration - A communication connection that allows the EVSE to connect to utility based advanced metering infrastructure networks or other systems to enable the EVSE to increase or decrease the rate of charging of PEVs depending upon factors such as electricity cost or demand on the grid. The purpose of such smart

charging integration is to minimize impacts to the power supply system and/or take advantage of energy price incentives.

Innovative Payment and Reservation Systems – For category A and B projects It is highly desirable for a proposer to provide at least one reservation and charging model that provides an open platform reservation and billing mechanism (outdoor card reader accepting major credit/debit and to a lesser extent proprietary cards such as fleet, student id, employee id, or retail card). Proposer should also explore ways to dedicate and reserve the EVSE spaces for vehicles that are charging only. Vehicles not using the charger should be removed from the EVSE charging spaces. The Proposer or a partner in the project may also provide a billing system either integrated into an EVSE or compatible with an online system. Reservation systems that use multiple entry points such as multiple reservation system websites, cell phone applications, and other internet based systems are highly desirable.

2.0 PROPOSAL REQUIREMENTS

Proposers must submit one (1) hard copy and one (1) electronic media copy (CD) of the proposal to the attention of Roseanne Viscusi at the address on the front of this Program Opportunity Notice. A completed and signed Proposal Checklist must be attached as the front cover of your proposal, WHICH MUST CONTAIN AN ORIGINAL SIGNATURE. **Late proposals and proposals lacking the appropriate completed and signed Proposal Checklist will be returned.** Faxed or e-mailed copies will not be accepted.

2.1 YOUR PROPOSAL MUST CONTAIN IN THE FOLLOWING ORDER:

Attachment A - Proposal Checklist WITH AN ORIGINAL SIGNATURE (Mandatory)

Attachment B - Disclosure of Prior Findings of Non-Responsibility Form (Mandatory)

Attachment C - Contract Pricing Proposal Form (Mandatory)

Attachment E - Proposal Overview Form (Mandatory)

A two part narrative as described in the following pages under Proposal Narrative Part 1 and Cost Proposal Part 2 (Mandatory)

Letters of project commitment from all financial partners to the proposal are mandatory. Absence of signed commitment letters will be viewed as a lack of financial commitment to the project proposal.

Exceptions to NYSERDA standard terms and conditions (provided under Attachment D), if any.

NYSERDA will enter into a contract with successful proposers using the attached Sample Agreement (**Attachment D**). **If you do not accept the standard terms and conditions, provide alternate terms with justification based on the risk and benefit to New York State. Any negotiation of terms will be at NYSERDA's sole discretion.** If you do not include exceptions to these terms with your proposal, and the proposal is awarded funding, no adjustment to these terms will be allowed in the NYSERDA contract. Attachment D does not need to be completed; it is provided only for review per the discussion above.

Proposals should not be excessively long (attempt to follow the page length guides given in the following narrative and cost sections) or submitted in an elaborate format that includes expensive binders or graphics. Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal. Each page of the proposal should state the name of the proposer, the PON number, and the page number.

PART 1: PROPOSAL NARRATIVE

A. Executive Summary: Briefly describe the project in a high level summary and list tasks that must be completed to accomplish the project.
(Estimated Length 1-2 pages)

Narrative

Give a description of the equipment that must be purchased and the required labor to install it. Will the work be done by subcontractors or the proposer's own personnel?

- Include a monthly or quarterly project schedule in chart or milestone format indicating planned start and completion dates for each task relative to execution of the contract.
- Define and indicate key milestones in the schedule.
- Status of process to date: Have project plans been developed? Are engineering drawings or site plan available on request? Have plans been approved by a qualified firm or individual (identify and provide credentials)? Have necessary permits been obtained? Note: Priority will be given to proposers with detailed project information and for projects that have already obtained appropriate permits.
- Describe the fleets or other entities that will use the proposed EVSE due to this project. Proposer may also include a brief marketing or business plan to market the EVSE.
- Describe the innovative technologies or systems that will be integrated into the EVSE in this project.
- Describe a plan for collecting data on EVSE use and the innovative technologies or systems. Data collected should include information required under Section 1.4 Reporting. Priority will be given to projects that can set up automated electronic data transfers to NYSERDA.
- If the Proposer has not fully developed the list of equipment and cost that is needed to fully install the EVSE, information about estimates of what equipment is needed must be provided. A full description of the estimated project including work to be done must be provided.

(Estimated Length 4-6 pages)

B. Project Management

Identify the Project Manager (main point of contact for NYSERDA) and key participants in the project. Describe their individual expertise and explain how each will contribute to the successful completion of the project. Provide brief biographies describing their management and technical expertise and experience with EVSE and charging equipment. List the tasks to be performed by the Project Manager and key participants. Include resumes as an attachment.

(Estimated Length 1-2 pages)

C. Energy, Environmental, and Economic Benefits

- Give a brief description of the environmental benefits of the project. Has there been any type of environmental review of the project?
 - Estimate amount of petroleum which will be displaced annually by EVSE usage and describe the methodology for estimating petroleum displacement
 - If applicable, indicate the number of jobs the project will affect (e.g., jobs created, saved, or displaced).
- (Estimated Length 1 page)

D. Proposed Statement of Work (SOW) and Schedule. The SOW is the primary contractual document that outlines work activities and quantifies deliverables. It specifically delineates each step or procedure required to accomplish the project objectives. Therefore, each action needs to be identified, indicating who will perform it, how it will be performed and its intended result. At the end of each task description, specific task deliverable(s) must be listed. Be clear and specific: concentrate on "how" and not "why." Use "active voice" sentence structure to make clear who is responsible for specific actions.

(Estimated Length 4-6 pages)

PART 2: BUDGET

All cost information must be provided on the attached Contract Pricing Proposal Form (**Attachment C**). Proposers may photocopy the Contract Pricing Proposal Form if additional space is necessary. Each subcontractor to the Proposer should complete a separate Attachment C form. Note, no reimbursement will be provided for costs incurred prior to the contract execution date for proposals awarded funding.

In addition to the Contract Pricing Proposal Form, include the following:

Narrative

- Describe the equipment that will be needed for the project.
- Describe the equipment’s function and necessity.
- Give budget estimate for the cost to purchase the equipment.
- Give budget estimate for the cost of labor to install the equipment.
- Describe the people who will do the work and whether they are external subcontractors or internal personnel
- Describe the cost share, including the amount and the source of cost share.

Budget narratives are expected to be as detailed as possible with their estimates and descriptions.
 (Estimated Length 3 pages)

Direct Costs

Present full cost of all components including equipment and installation costs. Note: Costs associated with general site work, (i.e. paving, concrete pads, etc, not directly related to the infrastructure work for EVSE are not eligible for funding or eligible to be used as cost share). Attach bids and preliminary engineering cost estimates. For major tasks, or in proposals that use direct labor personnel costs as a portion of the cost share contribution, indicate the number of hours each individual will spend on each task and an hourly rate of pay. Provide justification or verification for the rate of pay proposed.

Cost share information

Cost Sharing - The proposal must show non-NYSERDA funding of at least 35% of the total eligible cost of the project for categories A, B and C. Cost-sharing can be from the proposer, other team members, and other government or private sources. All cost sharing must be confirmed by a letter from the cost share entity committing to proving the cost share. A lack of letters from cost share partners will be viewed as a lack of support from those entities. Contributions of direct labor (for which the laborer is paid as an employee) and purchased materials may be considered "cash" contributions. Unpaid labor may be considered "in-kind" contributions. The proposer or proposing team cannot claim as cost share any expenses that have already been incurred.

Requested funds, cash cost share, and in-kind contributions together must account for 100% of the cost of eligible expenses for implementing the project.

1. Provide the following information about cost share contributions.
 - Type of cost share(s): cash, services, other (define);
 - Source(s) of cost-share contribution(s);
 - Dollar value of in-kind contribution(s);
 - If services, fully define how value of services was estimated; and
 - If other, provide full identifying information and define how value of contribution was estimated.

2. Include documentation of cost share support from entities other than the proposer. Absence of documentation of funding will be construed as a lack of commitment to the project by that entity.

Include a completed cost share chart as shown below. Expand the table as needed.

	Cash	In-Kind Contribution	Total
NYSERDA	\$	\$	\$
Proposer	\$	\$	\$
Others (list individually)	\$	\$	\$
Total	\$	\$	\$

Unit Prices for Level II EVSE

Provide unit price for each category of EVSE and include costs for installation labor, installation equipment, and permitting and engineering costs for EVSE installation.

	Unit Cost	Installation - Labor	Installation - Equipment	Installation - Permitting and Engineering
Wall mount				
Ceiling mount				
Pedestal				

Attach supporting documentation to support indirect cost (overhead) rate(s) included in your proposal as follows:

1. Describe the basis for the rates proposed (i.e., based on prior period actual results; based on projections; based on federal government or other independently-approved rates).
2. If rate(s) is approved by an independent organization, such as the federal government, provide a copy of such approval.
3. If rate(s) is based on estimated costs or prior period actual results, include calculations to support proposed rate(s). Calculation should provide enough information for NYSERDA to evaluate and confirm that the rate(s) are consistent with generally accepted accounting principles for labor costs.

NYSERDA reserves the right to audit any rate presented in the proposal and to make adjustment for such difference. Requests for financial statements or other needed financial information may be made if deemed necessary.

All recipients of awards for projects will receive funds on a reimbursement basis based on submission of invoices, proof of payment to vendors and sub-contractors and documentation of project completion, in accordance with a mutually agreed-upon Statement of Work.

2.2 PROPOSAL EVALUATION

Proposals will be reviewed by a Technical Evaluation Panel (TEP) and will be scored and ranked according to the following criteria, in order of importance. All three categories of projects will be evaluated together.

1. Proposal Quality
 - Enhance the goals of increasing the infrastructure for EVSE across all of New York;
 - The level of innovation shown by the project: Does the project contain a high level of innovation as described in Section 1.1 Project Requirements? Does the proposal contain detailed information on the proposed innovation and how that innovation will be implemented?
 - EVSE utilization estimates and EVSE utilization plan: Does the proposal contain a detailed estimate of EVSE utilization? Is the plan backed up by commitment letters or other detailed analysis? Is the plan viable?
 - Data collection plan: Does the proposal contain a detailed plan for meeting the reporting requirements of the PON (Section 1.4 Reporting)?
2. Proposer Qualifications
 - References and Past Performance: Does the Proposer have a history of successfully completing similar projects? Do they have the necessary technical expertise to complete the project?
 - Level of commitment from partners: Did the project partners provide commitment letters detailing their roles in the project and any financial or technical cost share for the project?
 - Strength of EVSE Marketing Plan (if the EVSE will be open to the public): Does the proposal contain a marketing plan to ensure that EV owners are aware of the EVSE funded under the project?
 - EVSE benefits more than one entity such as multiple users of the EVSE
 - Comprise unique partnerships, innovative project financing, innovative business models

- Completeness of construction plans and estimates: Does the proposal contain detailed construction estimates for the proposed sites? Are plans included with the proposal? Have permits been applied for and received?
3. Project Value
- Cost of EVSE and Installation
 - Schedule for completion of project: Does the proposal contain a reasonable schedule to complete the work? Will the work be completed and the EVSE installed in a timely manner?
 - Level of detail included in the budget
 - Cost of project management and reporting: Projects containing little or no requests for costs for project management or reporting will score higher
 - Level of cost share provided beyond the minimum required for eligible expenses
 - Equitable distribution of project types and locations around New York: Will the proposal give New York an equitable distribution of projects funded under the PON across the state?

2.3 GENERAL CONDITIONS

Proprietary Information - Careful consideration should be given before confidential information is submitted to NYSERDA as part of your proposal. Review should include whether it is critical for evaluating a proposal, and whether general, non-confidential information, may be adequate for review purposes. The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information submitted to NYSERDA that the proposer wishes to have treated as proprietary, and confidential trade secret information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to exempt it from disclosure, including a written statement of the reasons why the information should be exempted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 www.nyserda.org/about/nyserda.regulations.pdf. However, NYSERDA cannot guarantee the confidentiality of any information submitted.

Omnibus Procurement Act of 1992 - It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises, as bidders, subcontractors, and suppliers on its procurement Agreements.

Information on the availability of New York subcontractors and suppliers is available from:

Empire State Development
Division For Small Business
30 South Pearl Street
Albany, NY 12245

A directory of certified minority- and women-owned business enterprises is available from:

Empire State Development
Minority and Women's Business Development Division
30 South Pearl Street
Albany, NY 12245

State Finance Law sections 139-j and 139-k - NYSERDA is required to comply with State Finance Law sections 139-j and 139-k. These provisions contain procurement lobbying requirements which can be found at <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>

The attached Proposal Checklist calls for a signature certifying that the proposer will comply with State Finance Law sections 139-j and 139-k and the Disclosure of Prior Findings of Non-responsibility form includes a disclosure statement regarding whether the proposer has been found non-responsible under section 139-j of the State Finance Law within the previous four years.

Tax Law Section 5-a - NYSEDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSEDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. See, ST-220-TD (available at http://www.tax.state.ny.us/pdf/2007/killin/st/st220td_507_fill_in.pdf). Prior to contracting with NYSEDA, the prospective contractor must also certify to NYSEDA whether it has filed such certification with the Department. The Department has created a second form that must be completed by a prospective contractor prior to contacting and filed with NYSEDA. See, ST-220-CA (available at http://www.tax.state.ny.us/pdf/2006/killin/st/st220ca_606_fill_in.pdf). The Department has developed guidance for contractors which is available at <http://www.tax.state.ny.us/pdf/publications/sales/pub223.pdf>.

Contract Award - NYSEDA anticipates making multiple awards under this solicitation. It may award a contract based on initial applications without discussion, or following limited discussion or negotiations pertaining to the Statement of Work. Each offer should be submitted using the most favorable cost and technical terms. NYSEDA may request additional data or material to support applications. NYSEDA will use the Sample Agreement to contract successful proposals. NYSEDA reserves the right to limit any negotiations to exceptions to standard terms and conditions in the Sample Agreement to those specifically identified in the submitted proposal. NYSEDA expects to notify proposers in approximately 12 weeks from the proposal due date whether your proposal has been selected to receive an award.

Limitation - This solicitation does not commit NYSEDA to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYSEDA reserves the right to accept or reject any or all proposals received, to negotiate with all qualified sources, or to cancel in part or in its entirety the solicitation when it is in NYSEDA's best interest. NYSEDA reserves the right to reject proposals based on the nature and number of any exceptions taken to the standard terms and conditions of the Sample Agreement.

Disclosure Requirement - The proposer shall disclose any indictment for any alleged felony, or any conviction for a felony within the past five years, under the laws of the United States or any state or territory of the United States, and shall describe circumstances for each. When a proposer is an association, partnership, corporation, or other organization, this disclosure requirement includes the organization and its officers, partners, and directors or members of any similarly governing body. If an indictment or conviction should come to the attention of NYSEDA after the award of a contract, NYSEDA may exercise its stop-work right pending further investigation, or terminate the agreement; the contractor may be subject to penalties for violation of any law which may apply in the particular circumstances. Proposers must also disclose if they have ever been debarred or suspended by any agency of the U.S. Government or the New York State Department of Labor.

Procurement Lobbying Requirements - State Finance Law sections 139-j and 139-k

Procurement lobbying requirements contained in State Finance Law sections 139-j and 139-k became effective on January 1, 2006. (The text of the laws are available at: <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>). In compliance with §139-j and §139-k of the State Finance Law, for proposals submitted in response to this solicitation that could result in agreements with an annual estimated value in excess of \$15,000, additional forms must be completed and filed with proposals: (1) a signed copy of the Proposal Checklist including required certifications under the State Finance Law and (2) a completed Disclosure of Prior Findings of Non-Responsibility form. Failure to include a signed copy of the Proposal Checklist referenced in this solicitation will disqualify your proposal.

ATTACHMENTS

Attachment A – Proposal Checklist

Attachment B – Disclosure of Prior Findings of Non-Responsibility Form

Attachment C – Contract Pricing Proposal Form

Attachment D – Sample Agreement

Attachment E – Proposal Overview Form



ATTACHMENT A - PON No. 2301 PROPOSAL CHECKLIST (MANDATORY)

Proposal Title and Sub Category Applying to A, B, or C		Due Date: August 22, 2012	
Primary Contact (Prime Contractor)		Title	
Company		Phone	Fax
		e-mail	
Federal Tax Identification #/Social Security			
Address	City	State or Province	Zip
Secondary Contact		Title	
Company		Phone	Fax
		e-mail	
Address	City	State or Province	Zip
<p>THE PRIME CONTRACTOR MUST SIGN THIS FORM BELOW and ANSWER THE FOLLOWING QUESTIONS:</p> <p>Do you accept all Terms & Conditions in the Sample Agreement? (if no, explain on separate pg) ___ Yes ___ No (NYSERDA anticipates considering only specifically listed exceptions in negotiations.)</p> <p>Have you been indicted/convicted for a felony within the past 5 years? (if yes, explain on separate pg) ___ Yes ___ No</p> <p>Are you a Minority or Women-Owned Business Enterprise? ___ Yes ___ No</p> <p>Does your proposal contain Minority or Women-Owned Business enterprises as subcontractors? ___ Yes ___ No</p> <p>If yes what percent of value of the total work to be performed will be accomplished by the M\WBE? ___%</p> <p>Are you submitting the required number of copies? (See proposal instructions.) ___ Yes ___ No</p> <p>Is other public funding pending/awarded on this and/or very similar topic (prior and/or competing proposals)? ___ Yes ___ No (if yes, explain on separate page)</p>			
ON WHAT PAGE IN YOUR PROPOSAL CAN THESE ITEMS BE FOUND?			
Part 1 Proposal Narrative _____ Part 2 Cost Proposal _____ Contract Pricing Proposal Form _____ Commitment Letters _____ Resumes of Main Project Participants _____ Cost Share Chart _____ EVSE Price Chart _____		Indictment/Conviction of Felony (if applicable) _____ NYSERDA Contracts Awarded (if applicable) _____ Prior and/or Competing Proposals (if applicable) _____ Exceptions to Terms & Conditions (if applicable) _____ Completed and Signed Contract Pricing Proposal Form(s) _____ Disclosure of Prior Findings of Non-responsibility Form _____	
AUTHORIZED SIGNATURE & CERTIFICATION			
I certify that the above information, and all information submitted in connection with State Finance Law §139-j and §139-k, is complete, true, and accurate, and that the proposal requirements noted have been completed and are enclosed. I affirm that I understand and will comply with NYSERDA's procedures under §139-j(3) and §139-j(6)(b) of the State Finance Law. I understand that this proposal may be disqualified if the solicitation requirements are not met. I the undersigned am authorized to commit my organization to this proposal.			
Signature		Name	
Title		Organization	
Phone			

NOTE: This completed form **MUST** be signed and attached to the front of all copies of your proposal.

ATTACHMENT - B
Disclosure of Prior Findings of Non-responsibility Form
(Mandatory)

Name of Individual or Entity seeking to enter the procurement contract:		
Address:		
Date:		
Solicitation or Agreement Number:		
Name and Title of Person Submitting this Form:		
Has any Governmental Entity made a finding of non-responsibility regarding the Individual or Entity seeking to enter the Procurement Contract in the last four years? (Please indicate with an "X")		Yes
		No
Was the basis for the finding of non-responsibility due to a violation of §139-j of the State Finance Law? (Please indicate with an "X")		Yes
		No
Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please indicate with an "X")		Yes
		No
If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.		
Government Agency or Authority:		
Date of Finding of Non-responsibility:		
Basis of Finding of Non-responsibility: (Add additional pages as necessary)		

Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named Individual or Entity due to the intentional provision of false or incomplete information? (Please indicate with an "X")		Yes
		No

If you answered yes, please provide details below.

Government Agency or Authority:

Date of Termination or Withholding of Contract:

Basis of Termination or Withholding: (Add additional pages as necessary)

Offerer certifies that all information provided to NYSERDA with respect to State Finance Law §139-k is complete, true, and accurate.

By: _____ Date: _____
Signature

Name: _____ Title: _____

ATTACHMENT - C

New York State Energy Research and Development Authority Contract Pricing Proposal Form			Solicitation/Contract No. PON 2301	Page	
Contractor:			Name of Proposed Project:		
Address:					
Location (where work is to be performed):			NYSERDA funding:		
			Total Project Cost:		
Cost Element			Total Project Cost	Funding & Co-funding via NYSERDA	Cost-sharing & Other Co-funding
1. Direct Materials					
a. Purchased Parts					
b. Other					
Total Direct Materials					
2. Materials Overhead	Rate:				
3. Direct Labor (specify names/titles)	Hours	Rate/hr			
Total Direct Labor					
4. Labor Overhead	Rate %	\$ Base			
Total Labor Overhead					
5. Outside Special Testing					
6. Equipment					
7. Travel					
8. Other Direct Costs					
9. Subcontractors/Consultants					
Total Subcontractors/Consultants					
10. General & Administrative Expense	Rate %	Element(s)			
11. Fee or Profit (Not allowable)	Rate:-----	-----			
12. Total Estimated Project Cost					
This proposal reflects our best estimates as of this date, in accordance with the instructions to proposers.					
Typed Name and Title:			Signature:		Date:

Has any executive agency of the U.S. government performed any review of your records in connection with any prime contract or subcontract within the past twelve months? ____ Yes ____ No
 If yes, identify:

Supporting Schedule - Contract Pricing Proposal Form		
Element No.	Item Description	Amount

INSTRUCTIONS FOR PREPARATION OF COST ESTIMATE

Your cost proposal may be the basis of contract negotiation; it should be specific and complete in every detail. Supporting schedules (as described in Section B) providing the basis for your estimates must be provided.

A. GENERAL

The schedule must be submitted on NYSERDA's Contract Pricing Proposal Form.

B. INSTRUCTIONS AND DESCRIPTION OF REQUIRED SUPPORT DETAIL

(Title each supporting schedule and cross-reference it to the item number on the Contract Pricing Proposal Form)

1a. DIRECT MATERIALS - PURCHASED PARTS

Provide the following information for each proposed item with an estimated unit cost in excess of \$15,000.

- o Description of item
- o Proposed vendor
- o Quantity needed
- o Unit cost
- o Basis for cost (i.e., catalog, prior purchase, quote, etc.)
- o Total cost
- o Evidence of a competitive selection process in accordance with the requirements of the Subcontract Procedures section of the attached Sample Agreement.

1b. OTHER DIRECT MATERIALS

In accordance with the requirements of the Subcontract Procedures section of the attached Sample Agreement, for all items in excess of \$5,000, provide whatever information would be necessary to understand what is being obtained, how it is being obtained, what it will cost and how the estimated cost was determined with justification for all items.

2. MATERIALS OVERHEAD (also applicable to other Indirect Rate categories: 4. LABOR OVERHEAD and 10. G&A EXPENSE)

- o If Government-approved indirect rates are proposed, then supply a copy of an appropriate Government document verifying those rates.
- o If Government-approved rates are not proposed, supply the following, unless previously provided, for the years comprising the proposed period of contract performance.
 - o A description (chart or other) of the organization of the indirect cost center.
 - o The budget of indirect costs, by account, for each proposed indirect expense rate.
 - o The budget for the base, for each proposed rate, (direct labor dollars, hours, costs, etc.) itemized as to contract hours or costs, research and development hours of costs, and any other direct base effort.
 - o Actual incurred rates for the prior three years, including actual base and pool amounts.

3. DIRECT LABOR

- a. Commercial Enterprises
 - (1) Attach supporting schedules showing:
 - o Each category or type of labor being estimated
 - o Applicable labor rates per hour (straight-time)

- (2) Explain the method used for computing the rates (i.e., actual of an individual, actual average of a category or other grouping, etc.) Also identify any proposed labor escalation and the bases for it.

b. Educational Institutions

Provide the following for each calendar year of the contract:

- (1) For individuals not on an "actual hours worked" basis:
 - o individual's name
 - o annual salary and the period for which the salary is applicable (preferably in weeks)
 - o the proportionate time to be charged to this effort.
- (2) For individuals who maintain time records as the basis for charging costs, supply the detail as requested in Instructions 3(a)(1)

4. LABOR OVERHEAD (Same as Instructions for 2. MATERIALS OVERHEAD)

5. OUTSIDE SPECIAL TESTING

- a. Describe the effort.
- b. Provide the units of time (hours, days, weeks), cost rates, and the vendor.
- c. In accordance with the requirements of the Subcontract Procedures section of the attached Sample Agreement, provide the basis for selection of the vendor. Identify M/WBE vendors contacted for quotes and if none, explain why. Explain and justify the basis for any non-competitive selection.

6. EQUIPMENT

Capability to perform the work with existing facilities and equipment is assumed. It is NYSERDA's policy not to compensate for general purpose facilities or equipment. If some special purpose items are needed solely for this contract and are not available by other means (contractor assets, lease, etc.), then provide the following information for each item of required equipment.

- o vendor
- o model number
- o quantity
- o competitive selection process
- o unit cost and source of cost/price (i.e., quote, catalog, purchase history)
- o description of the use or application (NYSERDA dedicated, contract dedicated, other)

7. TRAVEL

- a. NYSERDA will accept as a direct charge only that travel required to perform the statement of work.
- b. Attach a schedule indicating the need for the proposed travel, the estimated number of person-trips required, destinations, mode and cost of transportation, and number of days subsistence per trip for each destination.
- c. Identify and support any other special transportation costs required in the performance of this project.

8. OTHER DIRECT COSTS

- a. Identify the type of cost (i.e. postage, telephone, publications, graphics, etc.)
- b. Provide cost details for the amounts estimated (hours or units, rates, etc.)
- c. If any internal service center rates are applied, provide details similar to that required in Instruction #B.
- d. For computer costs identify the make, model and type of computer, hours of service and appropriate rates, and whether the machine is company owned or leased.

9. SUBCONTRACTORS/CONSULTANTS

- a. Explain the specific technical area in which such service is to be used and identify the contemplated consultants.
- b. State the number of days and the hours per day of such service estimated to be required and the consultant's quoted rate per day. Document when/where the consultant has received the proposed rate in performing similar services for others.

10. GENERAL & ADMINISTRATIVE (G&A) EXPENSE (Same as instructions for 2. MATERIALS OVERHEAD)

11. FEE OR PROFIT

List the rate proposed for profit. No fee or profit is allowed under product development, demonstration or other certain cost-sharing projects.

Attachment D – Sample Agreement

Agreement No.:

Amount:

Type: **Cost-Sharing**

Agreement

Agreement dated this ___ day of _____, 2___ by and between the **NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY** ("NYSERDA"), a New York public benefit corporation having its principal office and place of business at 17 Columbia Circle, Albany, New York 12203-6399, and _____ having its principal office and place of business at _____ (the "Contractor").

In consideration of the premises and of the mutual covenants and agreements hereinafter set forth, the parties do hereby agree as follows:

Article I

Definitions

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined below shall have, for all purposes of this Agreement, the respective meanings set forth below, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined.

(a) General Definitions:

Agreement: This Agreement and Exhibits A, B, C, and D hereto, all of which are made a part hereof as though herein set forth in full.

Budget: The Budget set forth in Exhibit A hereto.

Contract Administrator: NYSERDA's Director of Contract Management, Cheryl L. Earley, or such other person who may be designated, in writing, by NYSERDA.

Effective Date: The effective date of this Agreement shall be the date in the first paragraph of page one, above.

Final Report: The Final Report required by the Statement of Work hereof.

Person: An individual, a corporation, an association or partnership, an organization, a business or a government or political subdivision thereof, or any governmental agency or instrumentality.

Progress Reports: The Progress Reports required by the Statement of Work hereof.

Statement of Work: The Statement of Work attached hereto as Exhibit A.

Subcontract: An agreement for the performance of Work by a Subcontractor, including any purchase order for the procurement of permanent equipment or expendable supplies in connection with the Work.

Subcontractor: A person who performs Work directly or indirectly for or on behalf of the Contractor (and whether or not in privity of contract with the Contractor) but not including any employees of the Contractor or the Subcontractors.

Work: The Work described in the Exhibit A (including the procurement of equipment and supplies in connection therewith) and the performance of all other requirements imposed upon the Contractor under this Agreement.

(b) Data Rights and Patents Definitions:

Contract Data: Technical Data first produced in the performance of the contract, Technical Data which are specified to be delivered under the contract, or Technical Data actually delivered in connection with the contract.

Practical Application: To manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system, and under conditions which indicate that the benefits of the invention are available to the public on reasonable terms.

Proprietary Data: Technical Data which embody trade secrets developed at private expense, such as design procedures or techniques, chemical composition of materials, or manufacturing methods, processes, or treatments, including minor modifications thereof, provided that such data:

(i) are not generally known or available from other sources without obligation concerning their confidentiality;

(ii) have not been made available by the owner to others without obligation concerning its confidentiality; and

(iii) are not already available to NYSERDA without obligation concerning their confidentiality.

Subject Invention: Any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this Agreement, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plants, whether patented or unpatented, under the Patent Laws of the United States of America or any foreign country.

Technical Data: Recorded information regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental or developmental, or demonstration, or engineering work, or be usable or used to define a design or process, or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer software (including computer software programs, computer software data bases, and computer software documentation). Examples of Technical Data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identification, and related information. Technical Data as used herein does not include financial reports, cost analyses, and other information incidental to contract administration.

Unlimited Rights: Rights to use, duplicate, or disclose Contract Data, in whole or in part, in any manner and for any purpose whatsoever, and to permit others to do so.

Article II

Performance of Work

Section 2.01. Manner of Performance. Subject to the provisions of Article XII hereof, the Contractor shall perform all of the Work described in the Statement of Work, or cause such Work to be performed in an efficient and expeditious manner and in accordance with all of the terms and provisions of this Agreement. The Contractor shall perform the Work in accordance with the current professional standards and with the diligence and skill expected for the performance of work of the type described in the Statement of Work. The Contractor shall furnish such personnel and shall procure such materials, machinery, supplies, tools, equipment and other items as may reasonably be necessary or appropriate to perform the Work in accordance with this Agreement.

Section 2.02. Project Personnel. It is understood and agreed that Mr./Ms. _____ shall serve as Project Director and as such shall have the responsibility of the overall supervision and conduct of the Work on behalf of the Contractor and that the persons described in the Statement of Work shall serve in the capacities described therein. Any change of Project Director by the Contractor shall be subject to the prior written approval of NYSERDA. Such approval shall not be unreasonably withheld, and, in the event that notice of approval or disapproval is not received by the Contractor within thirty days after receipt of request for approval by NYSERDA, the requested change in Project Director shall be considered approved. In the event that NYSERDA

requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to 180 days.

Article III

Deliverables

Section 3.01. Deliverables. All deliverables shall be provided in accordance with the Exhibit A Statement of Work.

Article IV

Compensation

Section 4.01. Cost-Sharing. It is understood and agreed that NYSERDA and the Contractor are sharing the costs for the Work to be performed. In consideration for this Agreement and as full compensation for NYSERDA's share of the costs for the performance of all Work, and in respect of all other direct and indirect costs, charges or expenses incurred in connection therewith, NYSERDA shall pay to the Contractor a maximum amount of \$_____ for the cost elements identified in the Budget to be funded with NYSERDA funds, subject to the provisions and restrictions contained herein. Such amount shall be paid only to the extent that costs are incurred by the Contractor in performance of the Work in accordance with the provisions of this Agreement, the Budget and the following:

(a) Staff Charges: The Contractor shall be compensated for the services performed by its employees under the terms of this Agreement at the employee's actual wage rate.

(b) Direct Charges: The Contractor shall be reimbursed for reasonable and necessary actual direct costs incurred (e.g., equipment, supplies, travel and other costs directly associated with the performance of the Agreement) to the extent required in the performance of the Work in accordance with the provisions of the Budget. Travel, lodging, meals and incidental expenses shall be reimbursed for reasonable and necessary costs incurred. Costs should generally not exceed the daily per diem rates published in the Federal Travel Regulations. Reimbursement for the use of personal vehicles shall be limited to the Internal Revenue Service business standard mileage rate.

(c) Indirect Costs: The Contractor shall be reimbursed for fringe benefits, overhead, general and administrative (G&A), and other indirect costs included in the Budget at such rates as the Contractor may periodically calculate, consistent with appropriate federal guidelines or generally accepted accounting principles.

Section 4.02. Title to Equipment. Title shall vest in the Contractor to all equipment purchased hereunder.

[OR, if specific equipment has been identified by the Project Manager for NYSERDA to retain title in, then use the following:]

Section 4.02. Title to Equipment. Title shall vest in NYSERDA to all of the following equipment purchased hereunder:

- 1)
- 2)
- 3)
- 4)

Upon the request of NYSERDA, the Contractor shall execute, acknowledge, deliver and perform, or cause to be executed, acknowledged, delivered or performed, all such bills of sale, assignments, conveyances or other documents or acts as NYSERDA may reasonably request in order to assure the better vesting in and confirming to NYSERDA, its successor and assigns, of title to and possession of such equipment. If, after six months following the completion of the Work or the termination of this Agreement, NYSERDA has not removed any such equipment, it will be deemed abandoned and become the property of the Contractor. Any such removal of equipment by NYSERDA shall be at NYSERDA's expense.

Section 4.03. Progress Payments. The Contractor may submit invoices for progress payment no more than once each month or no less than once each calendar quarter for Work performed during such period. Invoices shall be addressed to NYSERDA, "Attention: Accounts Payable." Such invoices shall make reference to the Agreement number shown on the upper right hand corner of page one of the Agreement. Invoices shall set forth total project costs incurred. These shall be broken down into NYSERDA's Funding share and into the Cost-Share and Other Cofunding share, and they shall be in a format consistent with the cost categories set forth in the Budget. Invoices shall provide reasonable documentation for the above to provide evidence of costs incurred, including:

- (a) Staff charges: for each employee, the name, title, number of hours worked, hourly rate and labor extension;
- (b) Direct charges: all direct costs shall be itemized on the invoice and supported by documentation, such as vendor invoices, travel vouchers or other documentation; and
- (c) Indirect charges: indirect cost rates and method by which rates are applied.

The Contractor shall be notified by NYSERDA in accordance with Section 504.4 (b)(2) of NYSERDA's Prompt Payment Policy Statement, attached hereto as Exhibit D, of any such information or documentation which the Contractor did not include with such invoice.

In accordance with and subject to the provisions of such Exhibit D, NYSERDA shall pay to the Contractor, within the prescribed time after receipt of an invoice for a progress payment, 90% of NYSERDA's share of the amount so requested, unless NYSERDA should determine that any such payment or any part thereof is otherwise not properly payable pursuant to the terms of the Agreement or the Budget.

Section 4.04. Final Payment. Upon final acceptance by NYSERDA of the Final Report and all other deliverables contained in Exhibit A, Statement of Work, pursuant to Section 6.02 hereof, the Contractor shall submit an invoice for final payment with respect to the Work, together with such supporting information and documentation as, and in such form as, NYSERDA may require. An invoice for final payment shall include, in addition to the material required pursuant to Section 4.03 hereof, a statement as to whether any invention or patentable devices have resulted from the performance of the Work. All invoices for final payment hereunder must, under any and all circumstances, be received by NYSERDA within six months following Acceptance of Work pursuant to Section 6.02 hereof. In accordance with and subject to the provisions of NYSERDA's Prompt Payment Policy Statement, attached hereto as Exhibit D, NYSERDA shall pay to the Contractor within the prescribed time after receipt of such invoice for final payment, the total amount payable pursuant to Section 4.01 hereof, less all progress payments previously made to the Contractor with respect thereto and subject to the maximum commitment of \$_____ set forth in Section 4.07 hereof.

Section 4.05. Release by the Contractor. The acceptance by the Contractor of final payment shall release NYSERDA from all claims and liability that the Contractor, its representatives and assigns might otherwise have relating to this Agreement.

Section 4.06. Maintenance of Records. The Contractor shall keep, maintain, and preserve at its principal office throughout the term of the Agreement and for a period of three years after acceptance of the Work, full and detailed books, accounts, and records pertaining to the performance of the Agreement, including without limitation, all bills, invoices, payrolls, subcontracting efforts and other data evidencing, or in any material way related to, the direct and indirect costs and expenses incurred by the Contractor in the course of such performance.

Section 4.07. Maximum Commitment. The maximum aggregate amount payable by NYSERDA to the Contractor hereunder is \$_____. NYSERDA shall not be liable for any costs or expenses in excess of such amount incurred by the Contractor in the performance and completion of the Work.

Section 4.08. Audit. NYSERDA shall have the right from time to time and at all reasonable times during the term of the Agreement and such period thereafter to inspect and audit any and all books, accounts and records at the office or offices of the Contractor where they are then being kept, maintained and preserved pursuant to Section 4.06 hereof. Any payment made under the Agreement shall be subject to retroactive reduction for amounts included therein which are found by NYSERDA on the basis of any audit of the Contractor by an agency of the

United States, State of New York or NYSERDA not to constitute an allowable charge or cost hereunder.

Article V

Assignments, Subcontracts and Purchase Orders

Section 5.01. General Restrictions. Except as specifically provided otherwise in this Article, the assignment, transfer, conveyance, subcontracting or other disposal of this Agreement or any of the Contractor's rights, obligations, interests or responsibilities hereunder, in whole or in part, without the express consent in writing of NYSERDA shall be void and of no effect as to NYSERDA.

Section 5.02. Subcontract Procedures. Without relieving it of, or in any way limiting, its obligations to NYSERDA under this Agreement, the Contractor may enter into Subcontracts for the performance of Work or for the purchase of materials or equipment. Except for a Subcontractor or supplier specified in a team arrangement with the Contractor in the Contractor's original proposal, and except for any Subcontract or order for equipment, supplies or materials from a single Subcontractor or supplier totaling under \$50,000, the Contractor shall select all Subcontractors or suppliers through a process of competitive bidding or multi-source price review. A team arrangement is one where a Subcontractor or supplier specified in the Contractor's proposal is performing a substantial portion of the Work and is making a substantial contribution to the management and/or design of the Project. In the event that a competitive bidding or multi-source price review is not feasible, the Contractor shall document an explanation for, and justification of, a sole source selection. The Contractor shall document the process by which a Subcontractor or supplier is selected by making a record summarizing the nature and scope of the work, equipment, supplies or materials sought, the name of each person or organization submitting, or requested to submit, a bid or proposal, the price or fee bid, and the basis for selection of the Subcontractor or supplier. An explanation for, and justification of, a sole source selection must identify why the work, equipment, supplies or materials involved are obtainable from or require a Subcontractor with unique or exceptionally scarce qualifications or experience, specialized equipment, or facilities not readily available from other sources, or patents, copyrights, or proprietary data. All Subcontracts shall contain provisions comparable to those set forth in this Agreement applicable to a Subcontractor or supplier, and those set forth in Exhibit B to the extent required by law, and all other provisions now or hereafter required by law to be contained therein. The Contractor shall submit to NYSERDA's Contract Administrator for review and written approval any Subcontract(s) specified in the Statement of Work as requiring NYSERDA approval.

Section 5.03. Performance. The Contractor shall promptly and diligently comply with its obligations under each Subcontract and shall take no action which would impair its rights thereunder. The Contractor shall not assign, cancel or terminate any Subcontract without the

prior written approval of the Contract Administrator as long as this Agreement remains in effect. Such approval shall not be unreasonably withheld and, in the event that notice of approval or disapproval is not received by the Contractor within thirty days after receipt of request for approval by NYSERDA, the requested assignment, cancellation, or termination of the Subcontract shall be considered approved by NYSERDA. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to 180 days.

Article VI

Schedule; Acceptance of Work

Section 6.01. Schedule. The Work shall be performed as expeditiously as possible in conformity with the schedule requirements contained herein and in the Statement of Work. The draft and final versions of the Final Report shall be submitted by the dates specified in the Exhibit A Schedule. It is understood and agreed that the delivery of the draft and final versions of such reports by the Contractor shall occur in a timely manner and in accordance with the requirements of the Exhibit A Schedule.

Section 6.02. Acceptance of Work. The completion of the Work shall be subject to acceptance by NYSERDA in writing of the Final Report and all other deliverables as defined in Exhibit A, Statement of Work.

Article VII

Force Majeure

Section 7.01. Force Majeure. Neither party hereto shall be liable for any failure or delay in the performance of its respective obligations hereunder if and to the extent that such delay or failure is due to a cause or circumstance beyond the reasonable control of such party, including, without limitation, acts of God or the public enemy, expropriation or confiscation of land or facilities, compliance with any law, order or request of any Federal, State, municipal or local governmental authority, acts of war, rebellion or sabotage or damage resulting therefrom, fires, floods, storms, explosions, accidents, riots, strikes, or the delay or failure to perform by any Subcontractor by reason of any cause or circumstance beyond the reasonable control of such Subcontractor.

Article VIII

Technical Data; Patents

Section 8.01. Rights in Technical Data

(a) Technical Data: Rights in Technical Data shall be allocated as follows:

(1) NYSERDA shall have:

(i) Unlimited Rights in Contract Data except as otherwise provided below with respect to Proprietary Data; and

(ii) no rights under this Agreement in any Technical Data which are not Contract Data.

(2) The Contractor shall have:

(i) the right to withhold Proprietary Data in accordance with the provisions of this clause; and

(ii) the right to use for its private purposes subject to patent, or other provisions of this Agreement, Contract Data it first produces in the performance of this Agreement provided the data requirements of this Agreement have been met as of the date of the private use of such data.

The Contractor agrees that to the extent it receives or is given access to Proprietary Data or other technical, business or financial data in the form of recorded information from NYSERDA or a NYSERDA contractor or subcontractor, the Contractor shall treat such data in accordance with any restrictive legend contained thereon, unless another use is specifically authorized by prior written approval of the Contract Administrator.

Section 8.02. Patents.

(a) The Contractor may elect to retain the entire right, title and interest throughout the world to each Subject Invention of the Contractor conceived or first actually reduced to practice in the performance of the Work under the Agreement; except, that with respect to any Subject Invention in which the Contractor elects to retain title, NYSERDA shall have a non-exclusive, non-transferrable, irrevocable, paid-up license for itself, the State of New York and all political subdivisions and other instrumentalities of the State of New York, to practice or have practiced for or on their behalf the Subject Invention throughout the world, exclusively for their own use of the Subject Invention.

(b) Within six months of the time a Subject Invention is made, or as part of the request for final payment, whichever shall occur first, the Contractor shall submit to NYSERDA a written invention disclosure. Within twelve months of the time a Subject Invention is made, or as part of the request for final payment, whichever shall occur first, the Contractor shall advise NYSERDA in writing whether the Contractor elects to retain principal rights in the Subject Invention. The Contractor shall file the patent application for a Subject Invention within two years of the date of election. If the Contractor fails to disclose a Subject Invention, fails to elect

to retain principal rights thereto, or to file a patent application within the time specified in this paragraph, or if the Contractor elects not to retain principal rights in a Subject Invention, the Contractor shall convey to NYSERDA title to the Subject Invention unless NYSERDA shall waive in writing its right to take title. In the event the Contractor elects not to retain principal rights in a Subject Invention, the Contractor shall retain a non-exclusive, royalty-free license throughout the world in such Subject Invention transferable only with the written approval of NYSERDA. Such approval shall not be unreasonably withheld, and, in the event that notice of approval or disapproval is not received by the Contractor within thirty days after receipt of request for approval, the requested transfer shall be considered approved. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to 180 days.

(c) The Contractor shall submit to NYSERDA, not less frequently than annually, written reports which indicate the status of utilization of Subject Inventions in which the Contractor retains principal rights. The reports shall conform to the requirements outlined in Exhibit A, Statement of Work and Metrics Reporting Guide, attached hereto. In the event the Contractor fails to demonstrate that the Contractor has taken effective steps within three years after a patent is issued to bring the Subject Invention to the point of Practical Application, then NYSERDA shall have the right to grant a non-exclusive or exclusive license to responsible applicants under terms that are reasonable under the circumstances, or to require the Contractor to do so.

(d) The Contractor shall include the foregoing patent clauses, suitably modified to identify the parties, in all subcontracts which involve the performance of Work under this Agreement. The Subcontractor shall retain all rights provided for the Contractor, and the Contractor shall retain all rights provided for NYSERDA, as set forth above.

Article IX

Warranties and Guarantees

Section 9.01. Warranties and Guarantees. The Contractor warrants and guarantees that:

- (a) it is financially and technically qualified to perform the Work;
- (b) it is familiar with and will comply with all general and special Federal, State, municipal and local laws, ordinances and regulations, if any, that may in any way affect the performance of this Agreement;
- (c) the design, supervision and workmanship furnished with respect to performance of the Work shall be in accordance with sound and currently accepted scientific standards and engineering practices;

(d) all materials, equipment and workmanship furnished by it and by Subcontractors in performance of the Work or any portion thereof shall be free of defects in design, material and workmanship, and all such materials and equipment shall be of first-class quality, shall conform with all applicable codes, specifications, standards and ordinances and shall have service lives and maintenance characteristics suitable for their intended purposes in accordance with sound and currently accepted scientific standards and engineering practices;

(e) neither the Contractor nor any of its employees, agents, representatives or servants has actual knowledge of any patent issued under the laws of the United States or any other matter which could constitute a basis for any claim that the performance of the Work or any part thereof infringes any patent or otherwise interferes with any other right of any Person;

(f) there are no existing undisclosed or threatened legal actions, claims, or encumbrances, or liabilities that may adversely affect the Work or NYSERDA's rights hereunder;

(g) it has no actual knowledge that any information or document or statement furnished by the Contractor in connection with this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statement not misleading, and that all facts have been disclosed that would materially adversely affect the Work; and

(h) Contractor certifies that all information provided to NYSERDA with respect to State Finance Law Sections 139-j and 139-k is complete, true and accurate.

Article X

Indemnification

Section 10.01. Indemnification. The Contractor shall protect, indemnify and hold harmless NYSERDA and the State of New York from and against all liabilities, losses, claims, damages, judgments, penalties, causes of action, costs and expenses (including, without limitation, attorneys' fees and expenses) imposed upon or incurred by or asserted against NYSERDA or the State of New York resulting from, arising out of or relating to the performance of this Agreement. The obligations of the Contractor under this Article shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage.

Article XI

Insurance

Section 11.01. Maintenance of Insurance; Policy Provisions. The Contractor, at no additional cost to NYSERDA, shall maintain or cause to be maintained throughout the term of this Agreement, insurance of the types and in the amounts specified in the Section hereof entitled

Types of Insurance. All such insurance shall be evidenced by insurance policies, each of which shall:

- (a) name or be endorsed to cover NYSERDA, the State of New York and the Contractor as additional insureds;
- (b) provide that such policy may not be cancelled or modified until at least 30 days after receipt by NYSERDA of written notice thereof; and
- (c) be reasonably satisfactory to NYSERDA in all other respects.

Section 11.02. Types of Insurance. The types and amounts of insurance required to be maintained under this Article are as follows:

- (a) Commercial general liability insurance for bodily injury liability, including death, and property damage liability, incurred in connection with the performance of this Agreement, with minimum limits of \$1,000,000 in respect of claims arising out of personal injury or sickness or death of any one person, \$1,000,000 in respect of claims arising out of personal injury, sickness or death in any one accident or disaster, and \$1,000,000 in respect of claims arising out of property damage in any one accident or disaster.

Section 11.03. Delivery of Policies; Insurance Certificates. Prior to commencing the Work, the Contractor shall deliver to NYSERDA certificates of insurance issued by the respective insurers, indicating the Agreement number thereon, evidencing the insurance required by this Article and bearing notations evidencing the payment of the premiums thereon or accompanied by other evidence of such payment satisfactory to NYSERDA. In the event any policy furnished or carried pursuant to this Article will expire on a date prior to acceptance of the Work by NYSERDA pursuant to the section hereof entitled Acceptance of Work, the Contractor, not less than 15 days prior to such expiration date, shall deliver to NYSERDA certificates of insurance evidencing the renewal of such policies, and the Contractor shall promptly pay all premiums thereon due. In the event of threatened legal action, claims, encumbrances, or liabilities that may affect NYSERDA hereunder, or if deemed necessary by NYSERDA due to events rendering a review necessary, upon request the Contractor shall deliver to NYSERDA a certified copy of each policy.

Article XII

Stop Work Order; Termination

Section 12.01. Stop Work Order.

- (a) NYSERDA may at any time, by written Order to the Contractor, require the Contractor to stop all or any part of the Work called for by this Agreement for a period of up to 90 days after the Stop Work Order is delivered to the Contractor, and for any further period to

which the parties may agree. Any such order shall be specifically identified as a Stop Work Order issued pursuant to this Section. Upon receipt of such an Order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Order during the period of work stoppage consistent with public health and safety. Within a period of 90 days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, NYSERDA shall either:

- (i) by written notice to the Contractor, cancel the Stop Work Order, which shall be effective as provided in such cancellation notice, or if not specified therein, upon receipt by the Contractor, or
- (ii) terminate the Work covered by such order as provided in the Termination Section of this Agreement.

(b) If a Stop Work Order issued under this Section is cancelled or the period of the Order or any extension thereof expires, the Contractor shall resume Work. An equitable adjustment shall be made in the delivery schedule, the estimated cost, the fee, if any, or a combination thereof, and in any other provisions of the Agreement that may be affected, and the Agreement shall be modified in writing accordingly, if:

- (i) the Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Agreement, and
- (ii) the Contractor asserts a claim for such adjustments within 30 days after the end of the period of Work stoppage; provided that, if NYSERDA decides the facts justify such action, NYSERDA may receive and act upon any such claim asserted at any time prior to final payment under this Agreement.

(c) If a Stop Work Order is not cancelled and the Work covered by such Order is terminated, the reasonable costs resulting from the Stop Work Order shall be allowed by equitable adjustment or otherwise.

(d) Notwithstanding the provisions of this Section 12.01, the maximum amount payable by NYSERDA to the Contractor pursuant to this Section 12.01 shall not be increased or deemed to be increased except by specific written amendment hereto.

Section 12.02. Termination.

(a) This Agreement may be terminated by NYSERDA at any time during the term of this Agreement with or without cause, upon 30 days prior written notice to the Contractor. In such event, compensation shall be paid to the Contractor for Work performed and expenses incurred

prior to the effective date of termination in accordance with the provisions of the Article hereof entitled Compensation and in reimbursement of any amounts required to be paid by the Contractor pursuant to Subcontracts; provided, however, that upon receipt of any such notice of termination, the Contractor shall cease the performance of Work, shall make no further commitments with respect thereto and shall reduce insofar as possible the amount of outstanding commitments (including, to the extent requested by NYSERDA, through termination of subcontracts containing provisions therefor).

(b) Nothing in this Article shall preclude the Contractor from continuing to carry out the Work called for by the Agreement after receipt of a Stop Work Order or termination notice at its own election, provided that, if the Contractor so elects, (i) any such continuing Work after receipt of the Stop Work Order or termination notice shall be deemed not to be Work pursuant to the Agreement and (ii) NYSERDA shall have no liability to the Contractor for any costs of the Work continuing after receipt of the Stop Work Order or termination notice.

(c) NYSERDA reserves the right to terminate this agreement in the event it is found that the certification filed by the Contractor in accordance with State Finance Law Sections 139-j and 139-k was intentionally false or intentionally incomplete. Upon such finding, NYSERDA may exercise its termination right by providing written notification to the Contractor as set forth in Article XV of this Agreement.

(d) NYSERDA reserves the right to terminate this agreement in the event it is found that the certification filed by the Contractor in accordance with New York State Tax Law Section 5-a was intentionally false when made. Upon such finding, NYSERDA may exercise its termination right by providing written notification to the Contractor as set forth in Article XV of this Agreement.

Article XIII

Independent Contractor

Section 13.01. Independent Contractor. The status of the Contractor under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, the Contractor, the Subcontractors, and their respective officers, agents, employees, representatives and servants shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives or servants of NYSERDA nor make any claim, demand or application for any right or privilege applicable to NYSERDA, including, without limitation, rights or privileges derived from workers' compensation coverage, unemployment insurance benefits, social security coverage and retirement membership or credit.

Article XIV

Compliance with Certain Laws

Section 14.01. Laws of the State of New York. The Contractor shall comply with all of the requirements set forth in Exhibit B hereto.

Section 14.02. All Legal Provisions Deemed Included. It is the intent and understanding of the Contractor and NYSERDA that each and every provision of law required by the laws of the State of New York to be contained in this Agreement shall be contained herein, and if, through mistake, oversight or otherwise, any such provision is not contained herein, or is not contained herein in correct form, this Agreement shall, upon the application of either NYSERDA or the Contractor, promptly be amended so as to comply strictly with the laws of the State of New York with respect to the inclusion in this Agreement of all such provisions.

Section 14.03. Other Legal Requirements. The references to particular laws of the State of New York in this Article, in Exhibit B and elsewhere in this Agreement are not intended to be exclusive and nothing contained in such Article, Exhibit and Agreement shall be deemed to modify the obligations of the Contractor to comply with all legal requirements.

Article XV

Notices, Entire Agreement, Amendment, Counterparts

Section 15.01. Notices.

(a) All notices, requests, consents, approvals and other communications which may or are required to be given by either party to the other under this Agreement shall be in writing and shall be transmitted either:

- (i) via certified or registered United States mail, return receipt requested;
- (ii) by facsimile transmission;
- (iii) by personal delivery;
- (iv) by expedited delivery service; or
- (v) by e-mail.

Such notices shall be addressed as follows, or to such different addresses as the parties may from time-to-time designate as set forth in paragraph (c) below:

NYSERDA

Name: Cheryl L. Earley

Title: Director of Contract Management

Address: 17 Columbia Circle, Albany, New York 12203

Facsimile Number: 518-862-1091

E-Mail Address: cle@nyserda.org

[CONTRACTOR]

Name:

Title:

Address:

Facsimile Number:

E-Mail Address:

(b) Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

(c) The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

Section 15.02. Entire Agreement; Amendment. This Agreement embodies the entire agreement and understanding between NYSERDA and the Contractor and supersedes all prior agreements and understandings relating to the subject matter hereof. Except as otherwise expressly provided for herein, this Agreement may be changed, waived, discharged or terminated only by an instrument in writing, signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

Section 15.03. Counterparts. This Agreement may be executed in counterparts each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

Article XVI

Publicity

Section 16.01. Publicity.

(a) The Contractor shall collaborate with NYSERDA's Director of Technical Communications to prepare any press release and to plan for any news conference concerning the Work. In addition the Contractor shall notify NYSERDA's Director of Technical Communications regarding any media interview in which the Work is referred to or discussed.

(b) It is recognized that during the course of the Work under this Agreement, the Contractor or its employees may from time to time desire to publish information regarding scientific or technical developments made or conceived in the course of or under this Agreement. In any such information, the Contractor shall credit NYSERDA's funding participation in the Project, and shall state that "NYSERDA has not reviewed the information contained herein, and the opinions expressed in this report do not necessarily reflect those of NYSERDA or the State of New York." Notwithstanding anything to the contrary contained herein, the Contractor shall have the right to use and freely disseminate project results for educational purposes, if applicable, consistent with the Contractor's policies.

(c) Commercial promotional materials or advertisements produced by the Contractor shall credit NYSERDA, as stated above, and shall be submitted to NYSERDA for review and recommendations to improve their effectiveness prior to use. The wording of such credit can be approved in advance by NYSERDA, and, after initial approval, such credit may be used in subsequent promotional materials or advertisements without additional approvals for the credit, provided, however, that all such promotional materials or advertisements shall be submitted to NYSERDA prior to use for review, as stated above. Such approvals shall not be unreasonably withheld, and, in the event that notice of approval or disapproval is not received by the Contractor within thirty days after receipt of request for approval, the promotional materials or advertisement shall be considered approved. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to 180 days. If NYSERDA and the Contractor do not agree on the wording of such credit in connection with such materials, the Contractor may use such materials, but agrees not to include such credit.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day, month and year first above written.

NEW YORK STATE ENERGY RESEARCH
AND DEVELOPMENT AUTHORITY

By _____

Name _____

Title _____

By
Jeffrey J. Pitkin

Treasurer

STATE OF)
) SS.:
COUNTY OF)

On the ____ day of _____ in the year _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individuals(s), or the person upon behalf of which the individual(s) acted, executed the document.

Notary Public

Exhibit A,
Statement of Work, including Budget, Schedule (to be completed by contractor),
and Metrics Reporting Guide (attached: Product Demonstration)

Metrics Reporting Guide

Product Demonstration

On an annual basis, the Contractor shall submit, to NYSERDA's Project Manager, a prepared analysis and summary of metrics addressing the anticipated energy, environmental and economic benefits that are realized by the project. All estimates shall reference credible sources and estimating procedures, and all assumptions shall be documented.

Reporting shall commence the first calendar year after the contract was executed. Reports shall be submitted by January 31st for the previous calendar years activities (i.e. reporting period). Reports shall continue to be submitted for **five** consecutive calendar years after commissioning or acceptance of equipment. The Contractor shall make every effort to quantify and document benefits and incorporate them into the Final Report and technology transfer activities as required in this agreement.

A form will be provided to you to submit the following metrics:

Site Metrics

Installation Status	<i>Current status of system installation (e.g. Design, Installed & Commissioning, Operational, etc.)</i>
Expected Duration	<i>Number of years equipment is expected to be installed</i>
Replication of System	<i>Additional installations of a similar system as a result of the NYSERDA project</i>
Jobs	<i>Jobs created/retained as a result of a NYSERDA project</i>

Information Dissemination

Name of Presentation or Event	<i>Names of the presentation or event where information was communicated about the product, company or research</i>
Organization that hosted the event	<i>Name of the organization that hosted the event</i>
Type of event	<i>The type of event where information was communicated about your company, product or research (e.g. conference, workshop, media event, etc.)</i>

Publications

- Publication Date** *Date information is published (month & year)*
- Publication Title** *Name of publication written as a result of research performed under contract with NYSERDA*
- Publication Type** *Examples: Citation, Final/Technical Report, Newsletter, Trade Publication etc.*
- Periodical Name** *Name of periodical the publication appeared in (if applicable)*
- Policy Development** *State if this publication been cited in government policy development*
- Names of Authors** *Author First & Last Names*

Resources Saved			
+	<i>Add Metric</i>		
	General Resource Type	Specific Resource Type	Unit of Measurement
x	▼	▼	▼
Resources Used			
+	<i>Add Metric</i>		
	General Resource Type	Specific Resource Type	Unit of Measurement
x	▼	▼	▼

[hide](#)

EXHIBIT B

REVISED 9/06

STANDARD TERMS AND CONDITIONS FOR ALL NYSERDA AGREEMENTS

(Based on Standard Clauses for New York State Contracts and Tax Law Section 5-a)

The parties to the attached agreement, contract, license, lease, amendment, modification or other agreement of any kind (hereinafter, "the Agreement" or "this Agreement") agree to be bound by the following clauses which are hereby made a part of the Agreement (the word "Contractor" herein refers to any party other than NYSERDA, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. NON-DISCRIMINATION REQUIREMENTS. In accordance with Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is an Agreement for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Agreement shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Agreement. If this is a building service Agreement as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Agreement and forfeiture of all moneys due hereunder for a second subsequent violation.

2. WAGE AND HOURS PROVISIONS. If this is a public work Agreement covered by Article 8 of the Labor Law or a building service Agreement covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, 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 State Labor Department in accordance with the Labor Law.

3. NON-COLLUSIVE BIDDING REQUIREMENT. In accordance with Section 2878 of the Public Authorities Law, if this Agreement 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 NYSERDA a non-collusive bidding certification on Contractor's behalf.

4. INTERNATIONAL BOYCOTT PROHIBITION. If this Agreement exceeds \$5,000, the Contractor agrees, as a material condition of the Agreement, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the Federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the Agreement's execution, such Agreement, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify NYSERDA within five (5) business days of such conviction, determination or disposition of appeal. (See and compare Section 220-f of the Labor Law, Section 139-h of the State Finance Law, and 2 NYCRR 105.4).

5. SET-OFF RIGHTS. NYSERDA shall have all of its common law and statutory rights of set-off. These rights shall include, but not be limited to, NYSERDA's option to withhold for the purposes of set-off any moneys due to the Contractor under this Agreement up to any amounts due and owing to NYSERDA with regard to this Agreement, any other Agreement, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to NYSERDA for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto.

6. CONFLICTING TERMS. In the event of a conflict between the terms of the Agreement (including any and all attachments thereto and amendments thereof) and the terms of this Exhibit B, the terms of this Exhibit B shall control.

7. GOVERNING LAW. This Agreement shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

8. NO ARBITRATION. Disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily required) without the NYSERDA's written consent, but must, instead, be heard in a court of competent jurisdiction of the State of New York.

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

10. CRIMINAL ACTIVITY. If subsequent to the effectiveness of this Agreement, NYSERDA comes to know of any allegation previously unknown to it that the Contractor or any of its principals is under indictment for a felony, or has been, within five (5) years prior to submission of the Contractor's proposal to NYSERDA, convicted of a felony, under the laws of the United States or Territory of the United States, then NYSERDA may exercise its stop work right under this Agreement. If subsequent to the effectiveness of this Agreement, NYSERDA comes to know of the fact, previously unknown to it, that Contractor or any of its principals is under such indictment or has been so convicted, then NYSERDA may exercise its right to terminate this Agreement. If the Contractor knowingly withheld information about such an indictment or conviction, NYSERDA may declare the Agreement null and void and may seek legal remedies against the Contractor and its principals. The Contractor or its principals may also be subject to penalties for any violation of law which may apply in the particular circumstances. For a Contractor which is an association, partnership, corporation, or other organization, the provisions of this paragraph apply to any such indictment or conviction of the organization itself or any of its officers, partners, or directors or members of any similar governing body, as applicable.

11. PERMITS. It is the responsibility of the Contractor to acquire and maintain, at its own cost, any and all permits, licenses, easements, waivers and permissions of every nature necessary to perform the work.

12. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this Agreement will be in accordance with, but not limited to, the specifications and provisions of State Finance Law Section 165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by NYSERDA.

13. COMPLIANCE WITH TAX LAW SECTION 5-a. The following provisions apply to Contractors that have entered into agreements in an amount exceeding \$100,000 for the purchase of goods and services:

- a. Before such agreement can take effect, the Contractor must have on file with the New York State Department of Taxation and Finance a Contractor Certification form (ST-220-TD).

- b. Prior to entering into such an agreement, the Contractor is required to provide NYSERDA with a completed Contractor Certification to Covered Agency form (Form ST-220-CA).
- c. Prior to any renewal period (if applicable) under the agreement, the Contractor is required to provide NYSERDA with a completed Form ST-220-CA.
- d. Certifications referenced in paragraphs (b) and (c) above will be maintained by NYSERDA and made a part hereof and incorporated herein by reference.
- e. NYSERDA reserves the right to terminate this agreement in the event it is found that the certification filed by the Contractor in accordance with Tax Law Section 5-a was false when made.

EXHIBIT C

REPORT FORMAT AND STYLE GUIDE

PURPOSE

This document explains how to prepare a technical report for the New York State Energy Research and Development Authority (NYSERDA). It describes editorial and production procedures and gives electronic data-transfer information. NYSERDA's contractors prepare the reports describing NYSERDA research and development projects that NYSERDA publishes. Please direct questions about format and style to Diane Welch of NYSERDA's Technical Communications unit: (518) 862-1090, ext. 3276; fax (518) 862-1091; e-mail dlw@nyserdera.org

COPYRIGHTS

All material borrowed or adapted from other sources should be properly identified (i.e., document, source, date, and page). The contractor must obtain and submit to NYSERDA the copyright owner's written permission to use copyrighted illustrations, tables, or substantial amounts of text from another publication.

REPORT FORMAT AND SEQUENCE

The following items are required in all technical reports and should be paginated in the following sequence:

- Title page (no page number)
- Notice (no page number)
- Abstract (iii)
- Acknowledgments (optional) (iv)
- Table of Contents, including listings of figures and tables (v or vii)
- Summary (S-1)

NOTE: the Abstract, Table of Contents, and each section begin on right-hand, odd-numbered pages.

Title Page

- The following information is required (see sample on last page):
 - Report title and type of report (i.e., final, interim, or summary)
 - Name of NYSERDA project manager(s)

- Corporate name, city, and state of contractor(s), including contact person(s) or project manager(s)
- Project cosponsors, including contact person(s) or project manager(s)
- Contract number (e.g., 3178-ERTER-MW-94)

Notices

One of these legal notices or disclaimers is required:

- When NYSERDA is the project's sole sponsor, this notice must be used:

NOTICE

This report was prepared by _____ in the course of performing work contracted for and sponsored by the New York State Energy Research and Development Authority (hereafter "NYSERDA"). The opinions expressed in this report do not necessarily reflect those of NYSERDA or the State of New York, and reference to any specific product, service, process, or method does not constitute an implied or expressed recommendation or endorsement of it. Further, NYSERDA, the State of New York, and the contractor make no warranties or representations, expressed or implied, as to the fitness for particular purpose or merchantability of any product, apparatus, or service, or the usefulness, completeness, or accuracy of any processes, methods, or other information contained, described, disclosed, or referred to in this report. NYSERDA, the State of New York, and the contractor make no representation that the use of any product, apparatus, process, method, or other information will not infringe privately owned rights and will assume no liability for any loss, injury, or damage resulting from, or occurring in connection with, the use of information contained, described, disclosed, or referred to in this report.

- When there are other project cosponsors, use the following notice instead:

NOTICE

This report was prepared by _____ in the course of performing work contracted for and sponsored by the New York State Energy Research and Development Authority and the _____ (hereafter the "Sponsors"). The opinions expressed in this report do not necessarily reflect those of the Sponsors or the State of New York, and reference to any specific product, service, process, or method does not constitute an implied or expressed recommendation or endorsement of it. Further, the Sponsors and the State of New York make no warranties or representations, expressed or implied, as to the fitness for particular purpose or merchantability of any product, apparatus, or service, or the usefulness, completeness, or accuracy of any processes, methods, or other information contained, described, disclosed, or referred to in this report. The Sponsors, the State of New York, and the contractor make no

representation that the use of any product, apparatus, process, method, or other information will not infringe privately owned rights and will assume no liability for any loss, injury, or damage resulting from, or occurring in connection with, the use of information contained, described, disclosed, or referred to in this report.

Abstract and Key Words — right-hand, odd-numbered page [iii]

An abstract is a brief, 200-word description of project objectives, investigative methods used, and research conclusions or applications. This information will be used when NYSERDA registers the report with the National Technical Information Service (NTIS). A list of key words that describe the project and identify the major research concept should be submitted with the report. Four to six precise descriptors are generally sufficient and will be used for indexing, registering, and distributing the report through NTIS.

Acknowledgments (optional) — left-hand, even-numbered page [iv]

Acknowledgments precede the contents and should be no longer than two paragraphs.

Table of Contents and Lists of Figures and Tables — begin on odd-numbered, right-hand pages [v. vii, ix, etc.]]

The Table of Contents should list section numbers, titles, second-level headings, and their page numbers. Third-level headings also may be listed. If the report contains five or more figures or tables, they should be listed using the style of the Table of Contents. The following samples are boxed only to set them apart in this document.

Summary — right-hand, odd-numbered page [S-1]

The Summary, which immediately precedes the body of the text, should be written for a general audience. The Summary may be the only part of the technical report closely read by a number of people, many of whom lack a technical background. These may include industry and utility executives, government officials, legislators, the general public, and media representatives. The Summary should be 500-1000 words long.

TABLE OF CONTENTS	
<u>Section</u>	<u>Page</u>
SUMMARY	S-1
1. DESCRIPTION OF STUDY	1-1
Sources of Information	1-5
Bases of Evaluation	1-9
2. EXISTING CONDITIONS	2-1
Architecture	2-3
Mechanical and Electrical Systems	2-13

3. ANALYSIS OF PRESENT ENERGY USE.....	3-1
Analysis of Use by Systems	3-3
Analysis of Use by Hospital Services	3-17
APPENDIX A Comparison of Expenses for NYS Hospitals	A-1
APPENDIX B Forms for Energy Audits in Hospitals	B-1

FIGURES

<u>Figure</u>	<u>Page</u>
1-1 Comparative Energy Use Per Cubic Foot in Hospitals Under 200 Beds.....	1-2
2-1 View of Community Hospital from South	2-1
2-2 Site Plan.....	2-5

GENERAL INFORMATION

The first reference to NYSERDA should read “the New York State Energy Research and Development Authority (NYSERDA).” Subsequent references should read simply “NYSERDA.” When it is clear that you are referring to New York State, use State; otherwise, use New York State or the State of New York.

COPY

- Page format:
 - Margins should be 1.25 inches left and right; 1 inch top and bottom.
 - Use left-hand justification only.
 - Text should be in a 10-point serif font (i.e., Times Roman, Bookman, etc.); captions, tables, and figures should be in a sans-serif font (i.e., Helvetica, Arial, etc.).
 - Spacing should be 1.5 lines, printed on one side of the paper.
 - Block-style paragraphs should be used, with no indentation (except for fifth-level headings, which should be blocked on the left; see Heading Styles, below).
 - There should be two returns between a paragraph and the next heading.
- Material borrowed or adapted from external sources must be identified (i.e., document, source, date, and page). Written permission to use copyrighted illustrations, tables, or text taken from another publication must be submitted with the report.
- Avoid half-page and one-sentence paragraphs.
- Do not use contractions.

- When referring to a specific figure or table, spell out and capitalize the words "Figure" and "Table."
- Indented lists of material should be set off with bullets:
 - If a typographical bullet is unavailable, the bullet is a lower case "o," not zero.
 - One blank line should precede and follow a list.
 - Bulleted items should be indented left and right.
- All new sections should begin on a right-hand, odd-numbered page (e.g., 1-1, 2-1, A-1, etc.).
- Percentages should be written as follows: 1%, 76%, etc.
- Acronyms must be spelled out the first time used, followed by the acronym in parentheses.

HEADING STYLES

The heading styles illustrated below should be used. (Only section headings should be numbered.)

FIRST-LEVEL HEADING

Section 1

INTRODUCTION

The heading is upper case, centered, and boldfaced; the text is below the heading, at the left margin.

SECOND-LEVEL HEADING

The heading is upper case, at the left margin, and boldfaced; the text is at the left margin.

Third-Level Heading

The heading is upper and lower case, at the left margin, boldfaced, and underscored; the text is at the left margin.

Fourth-Level Heading. The heading is upper and lower case, at the left margin, boldfaced, and underscored, with a period at the end. The text continues on the same line as the heading. The remaining text goes back out to the left margin. **Fifth-Level Heading.** The heading is upper and lower case, indented, boldfaced, and underscored with a period at the end. The text continues on the same line, with the remaining text indented left and right.

TABLES AND FIGURES

- Tables and figures must be numbered sequentially and titled individually.
- Place tables and figures as close as possible to the text in which they are mentioned.
- Distinguish tabular material from the text.

- Cite a source if the tabular material or figure content has not been generated by the contractor.
- Figure captions should be complete sentences when appropriate.
- Use "Figure 1," not "Fig. 1," or "Table 1." in the text, as well as for captions. Examples:
 - Table 1 details demand-side management options.
 - As shown in Figure 1, the demand-side management program offers numerous options.
- Figure captions should be typed in boldface.
 - **Figure 1. Demand-Side Management Options in New York State.**
- Unless generated by the contractor, a source should always be cited. The figure source should appear after the caption (e.g., Source: Lawrence Berkeley Laboratory); the table source should be noted with an asterisk and footnoted.
- Photographs and drawings should be limited in number, with the following guidelines:
 - Black-and-white line drawings or good-quality, clear halftones (black-and-white photographs) may be used. Color artwork and photos will be printed in black-and-white.
 - Slides should be converted to black-and-white photos before being submitted.
 - Photographs should be printed on glossy stock, preferably 5"x7".

REFERENCES AND BIBLIOGRAPHIES

The format in Manual of Style (University of Chicago Press, Chicago, Illinois) should be used for reference listings and bibliographies.

Bibliographic entries should be listed alphabetically by author, as follows:

Hawkins, R.R. Scientific, Medical, and Technical Books Published in the United States of America. 2d ed. New York: Bowker, 1958.

REPORT REQUIREMENTS

Two hard copies of the draft final report must be submitted to NYSERDA's Director of Communications. After review by the Project Manager and Technical Communications staff, the draft will be returned to the contractor for final corrections. The contractor is responsible for satisfactorily addressing technical comments from NYSERDA and other co-funders. When making editorial corrections, the contractor must ensure that technical content is not compromised.

After editorial corrections have been made, the contractor must submit two hard copies of the final report (one a camera-ready original and the other a photocopy) and the report on a compact disc, Iomega 100 PC-Zip disk, or IBM personal computer-compatible diskette to NYSERDA's Director of Communications.

Electronic Requirements

- Material must be submitted in any of the following formats:
 - Compact disc (CD-ROM)
 - Iomega 100 PC-Zip disk
 - IBM personal computer-compatible 3.5-inch, double-sided (DS), high-density (HD) diskette

- Textual material should be created in a format compatible with WordPerfect 9. While other word-processing programs may be able to be converted, results may vary. Characteristics such as underlining, bold, italics, and special characters that often appear in equations may be lost if WordPerfect 9 is not used.

- Reports that are to be published on the web must be submitted as either a PDF or HTML file.

If you are unable to meet these electronic transfer requirements, before submitting your report please contact Diane Welch of NYSERDA's Technical Communications unit at (518) 862-1090, ext. 3276; fax (518) 862-1091; e-mail dlw@nyserda.org

**CITY OF LOCKPORT INFLUENT HYDROPOWER
FEASIBILITY STUDY
Final Report**

Prepared for

**THE NEW YORK STATE
ENERGY RESEARCH AND DEVELOPMENT AUTHORITY**
Albany, NY

Lawrence J. Pakenas, P.E.
Senior Project Manager

Prepared by

CITY OF LOCKPORT
Lockport, NY

Michael Diel
Project Manager

and

MALCOLM PIRNIE, INC.
Buffalo, NY

Vincent J. Funigiello, P.E.
Project Manager

4311-ERTER-MW-97

NYSERDA
Report 98-11

July 1998



*Sample title page. Font is a serif font (Times Roman). Bold-faced text is 13 pt., small caps. The rest of the type is 11 pt., plain text.

EXHIBIT D

PART 504

PROMPT PAYMENT POLICY STATEMENT

Section 504.1 Purpose and applicability. (a) The purpose of this Part is to implement section 2880 of the Public Authorities Law by detailing the authority's policy for making payment promptly on amounts properly due and owing by the authority under contracts. This Part constitutes the authority's prompt payment policy statement as required by that section.

(b) This Part generally applies to payments due and owing by the authority to a person or business in the private sector under a contract it has entered into with the authority on or after May 1, 1988. This Part does not apply to payments due and owing:

(1) under the Eminent Domain Procedure Law;

(2) as interest allowed on judgments rendered by a court pursuant to any provision of law except Section 2880 of the Public Authorities Law;

(3) to the Federal government; to any state agency or its instrumentalities; to any duly constituted unit of local government, including but not limited to counties, cities, towns, villages, school districts, special districts or any of their related instrumentalities; to any other public authority or public benefit corporation; or to its employees when acting in, or incidental to, their public employment capacity;

(4) if the Authority is exercising a legally authorized set-off against all or part of the payment;
or

(5) if other State or Federal law or rule or regulation specifically requires otherwise.

Section 504.2 Definitions. As used in this Part, the following terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) "Authority" means the New York State Energy Research and Development Authority.

(b) "Contract" means an enforceable agreement entered into between the Authority and a contractor.

(c) "Contractor" means any person, partnership, private corporation, or association:

(1) selling materials, equipment or supplies or leasing property or equipment to the Authority pursuant to a contract;

(2) constructing, reconstructing, rehabilitating or repairing buildings, highways or other improvements for, or on behalf of, the Authority pursuant to a contract; or

(3) rendering or providing services to the Authority pursuant to a contract.

(d) "Date of payment" means the date on which the Authority requisitions a check from its statutory fiscal

agent, the Department of Taxation and Finance, to make a payment.

(e) "Designated payment office" means the Office of the Authority's Controller, located at 17 Columbia Circle, Albany, New York 12203.

(f) "Payment" means provision by the Authority of funds in an amount sufficient to satisfy a debt properly due and owing to a contractor and payable under all applicable provisions of a contract to which this Part applies and of law, including but not limited to provisions for retained amounts or provisions which may limit the Authority's power to pay, such as claims, liens, attachments or judgments against the contractor which have not been properly discharged, waived or released.

(g) "Prompt payment" means a payment within the time periods applicable pursuant to Sections 504.3 through 504.5 of this Part in order for the Authority not to be liable for interest pursuant to Section 504.6.

(h) "Payment due date" means the date by which the date of payment must occur, in accordance with the provisions of Sections 504.3 through 504.5 of this Part, in order for the Authority not to be liable for interest pursuant to Section 5.06.

(i) "Proper invoice" means a written request for a contract payment that is submitted by a contractor setting forth the description, price or cost, and quantity of goods, property or services delivered or rendered, in such form, and supported by such other substantiating documentation, as the Authority may reasonably require, including but not limited to any requirements set forth in the contract; and addressed to the Authority's Controller, marked "Attention: Accounts Payable," at the designated payment office.

(j)(1) "Receipt of an invoice" means:

(i) if the payment is one for which an invoice is required, the later of:

(a) the date on which a proper invoice is actually received in the designated payment office during normal business hours; or

(b) the date by which, during normal business hours, the Authority has actually received all the purchased goods, property or services covered by a proper invoice previously received in the designated payment office.

(ii) if a contract provides that a payment will be made on a specific date or at a predetermined interval, without having to submit a written invoice the 30th calendar day, excluding legal holidays, before the date so specified or predetermined.

(2) For purposes of this subdivision, if the contract requires a multifaceted, completed or working system, or delivery of no less than a specified quantity of goods, property or services and only a portion of such systems or less than the required goods, property or services are working, completed or delivered, even though the Contractor has invoiced the Authority for the portion working, completed or delivered, the Authority will not be in receipt of an invoice until the specified minimum amount of the systems, goods, property or services are working, completed or delivered.

(k) "Set-off" means the reduction by the Authority of a payment due a contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the contractor to the Authority.

Section 504.3 Prompt payment schedule. Except as otherwise provided by law or regulation or in Sections 504.4 and 504.5 of this Part, the date of payment by the Authority of an amount properly due and owing under a contract shall be no later than 30 calendar days, excluding legal holidays, after such receipt.

Section 504.4 Payment procedures.

(a) Unless otherwise specified by a contract provision, a proper invoice submitted by the contractor to the designated payment office shall be required to initiate payment for goods, property or services. As soon as any invoice is received in the designated payment office during normal business hours, such invoice shall be date-stamped. The invoice shall then promptly be reviewed by the Authority.

(b) The Authority shall notify the contractor within 15 calendar days after receipt of an invoice of:

- (1) any defects in the delivered goods, property or services;
- (2) any defects in the invoice; and
- (3) suspected improprieties of any kind.

(c) The existence of any defects or suspected improprieties shall prevent the commencement of the time period specified in Section 504.3 until any such defects or improprieties are corrected or otherwise resolved.

(d) If the Authority fails to notify a contractor of a defect or impropriety within the fifteen calendar day period specified in subdivision (b) of this section, the sole effect shall be that the number of days allowed for payment shall be reduced by the number of days between the 15th day and the day that notification was transmitted to the contractor. If the Authority fails to provide reasonable grounds for its contention that a defect or impropriety exists, the sole effect shall be that the payment due date shall be calculated using the original date of receipt of an invoice.

(e) In the absence of any defect or suspected impropriety, or upon satisfactory correction or resolution of a defect or suspected impropriety, the Authority shall make payment, consistent with any such correction or resolution and the provisions of this Part.

Section 504.5 Exceptions and extension of payment due date. The Authority has determined that, notwithstanding the provisions of Sections 504.3 and 504.4 of this Part, any of the following facts or circumstances, which may occur concurrently or consecutively, reasonably justify extension of the payment due date:

(a) If the case of a payment which a contract provides will be made on a specific date or at a predetermined interval, without having to submit a written invoice, if any documentation, supporting data, performance verification, or notice specifically required by the contract or other State or Federal mandate has not been submitted to the Authority on a timely basis, then the payment due date shall be extended by the number of calendar days from the date by which all such matter was to be submitted to the Authority and the date when the Authority has actually received such matter.

(b) If an inspection or testing period, performance verification, audit or other review or documentation independent of the contractor is specifically required by the contract or by other State or Federal mandate, whether to be performed by or on behalf of the Authority or another entity, or is specifically permitted by the

contract or by other State or Federal provision and the Authority or other entity with the right to do so elects to have such activity or documentation undertaken, then the payment due date shall be extended by the number of calendar days from the date of receipt of an invoice to the date when any such activity or documentation has been completed, the Authority has actually received the results of such activity or documentation conducted by another entity, and any deficiencies identified or issues raised as a result of such activity or documentation have been corrected or otherwise resolved.

(c) If an invoice must be examined by a State or Federal agency, or by another party contributing to the funding of the contract, prior to payment, then the payment due date shall be extended by the number of calendar days from the date of receipt of an invoice to the date when the State or Federal agency, or other contributing party to the contract, has completed the inspection, advised the Authority of the results of the inspection, and any deficiencies identified or issues raised as a result of such inspection have been corrected or otherwise resolved.

(d) If appropriated funds from which payment is to be made have not yet been appropriated or, if appropriated, not yet been made available to the Authority, then the payment due date shall be extended by the number of calendar days from the date of receipt of an invoice to the date when such funds are made available to the Authority.

Section 504.6 Interest eligibility and computation. If the Authority fails to make prompt payment, the Authority shall pay interest to a contractor on the payment when such interest computed as provided herein is equal to or more than ten dollars. Interest shall be computed and accrue at the daily rate in effect on the date of payment, as set by the New York State Tax Commission for corporate taxes pursuant to Section 1096(e)(1) of the Tax Law. Interest on such a payment shall be computed for the period beginning on the day after the payment due date and ending on the date of payment.

Section 504.7 Sources of funds to pay interest. Any interest payable by the Authority pursuant to this Part shall be paid only from the same accounts, funds, or appropriations that are lawfully available to make the related contract payment.

Section 504.8 Incorporation of prompt payment policy statement into contracts. The provisions of this Part in effect at the time of the creation of a contract shall be incorporated into and made a part of such contract and shall apply to all payments as they become due and owing pursuant to the terms and conditions of such contract, notwithstanding that the Authority may subsequently amend this Part by further rulemaking.

Section 504.9 Notice of objection. Unless a different procedure is specifically prescribed in a contract, a contractor may object to any action taken by the Authority pursuant to this Part which prevents the commencement of the time in which interest will be paid by submitting a written notice of objection to the Authority. Such notice shall be signed and dated and concisely and clearly set forth the basis for the objection and be addressed to the Vice President, New York State Energy Research and Development Authority, at the address set forth in Section 504.2(e). The Vice President of the Authority, or his or her designee, shall review the objection for purposes of affirming or modifying the Authority's action. Within 15 working days of the receipt of the objection, the Vice President, or his or her designee, shall notify the contractor either that the Authority's action is affirmed or that it is modified or that, due to the complexity of the issue, additional time is needed to conduct the review; provided, however, in no event shall the extended review period exceed 30 working days.

Section 504.10 Judicial Review. Any determination made by the Authority pursuant to this Part which prevents the commencement of the time in which interest will be paid is subject to judicial review in a

proceeding pursuant to Article 78 of the Civil Practice Law and Rules. Such proceedings shall only be commenced upon completion of the review procedure specified in Section 504.9 of this Part or any other review procedure that may be specified in the contract or by other law, rule, or regulation.

Section 504.11 Court action or other legal processes.

(a) Notwithstanding any other law to the contrary, the liability of the Authority to make an interest payment to a contractor pursuant to this Part shall not extend beyond the date of a notice of intention to file a claim, the date of a notice of a claim, or the date commencing a legal action for the payment of such interest, whichever occurs first.

(b) With respect to the court action or other legal processes referred to in subdivision (a) of this section, any interest obligation incurred by the Authority after the date specified therein pursuant to any provision of law other than Public Authorities Law Section 2880 shall be determined as prescribed by such separate provision of law, shall be paid as directed by the court, and shall be paid from any source of funds available for that purpose.

Section 504.12 Amendments. These regulations may be amended by resolution of the Authority, provided that the Chair, upon written notice to the other Members of the Authority, may from time to time promulgate nonmaterial amendments of these regulations.



**Electric Vehicle Supply Equipment (EVSE)
 Demonstration Program
 Program Opportunity Notice (PON) 2301
 Approximately \$4 Million Available**

**Attachment E
 Proposal Overview Form**

Expand cells as needed but keep the length of the document to two pages or less

Proposer contact information and address:	
Objectives:	Describe what you see as your specific objectives in this project.
Background:	Proposer History and company background.
Project Description:	Give a brief description of the tasks you will accomplish as your scope of work.
Benefits and Metrics:	Characterize and quantify, if possible, project benefits to NYS. Identify how success/benefits will be measured and verified during and after project completion.
Strengths:	List what you believe to be the specific strengths of your proposal.
Weaknesses:	List in priority order any identified weaknesses of your proposal and how your team will mitigate those weaknesses.
Funding:	Indicate the total amount of funding requested and any cost share being provided. List whether cost share is cash or in-kind services.