

AGREEMENT made this 19 day of June 2019 by and between

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains New York, 10601 (hereinafter referred to as the "County")

And

THE BRONX RIVER PARKWAY RESERVATION CONSERVANCY, INC., a not for profit corporation organized and existing under the laws of the State of New York, having an office and place of business at 81 Pondfield Road, Suite D277, Bronxville, New York 10708 (hereinafter referred to as the "Conservancy")

WITNESSETH

WHEREAS, the County, acting through the Commissioner of the Department of Parks, Recreation and Conservation ("Commissioner"), desires to make certain services and facilities available for the accommodation of the public using County facilities at the Bronx River Parkway Reservation, Westchester County, New York (the "Park"); and

WHEREAS The Conservancy desires to assist in providing such services and operate such facilities for the County; and

WHEREAS, The Conservancy was formed exclusively for cultural, civic, and charitable purposes, and solely for the benefit of the Park.

NOW, THEREFORE, the parties hereto in consideration of the terms and conditions herein contained do agree as follows:

1. Representation of Purpose: The Conservancy represents hereby that it is a not-for-profit corporation formed exclusively for cultural, civic and charitable purposes, and solely for the benefit of the Bronx River Parkway Reservation for the purpose of (1) aiding in the sound development of the Park (2) contributing to the support of the Park (3) encouraging and maintaining public appreciation of the Park and (4) assisting in cultural, leisure time and other programs, activities and projects of the Park. The Conservancy acknowledges that this representation of its purpose is a material part of this Agreement and any change in Conservancy's purpose as evidenced in its bylaws or other actions shall be considered a breach of this Agreement.

2. Permission: The County hereby grants the Conservancy permission to enter in and upon County property, specifically for the purpose of conducting its activities in the Park in furtherance of the purposes of the Conservancy and for the benefit of the County.

These activities shall include, but not be limited, to events, such as craft fairs, walking tours, birding and other activities for the public including membership drives, that may coincide with County events such as Bicycle Sundays, as may be approved by the Commissioner. The Conservancy may also conduct leisure time fund-raising activities on behalf of the Park subject to the approval of the Commissioner. The dates and times for all programs and activities shall be designated by the Commissioner. The Conservancy will engage in the maintenance of the Park in cooperation and coordination with the County and conduct such activities as vine cutting, trash removal, pathway, site feature and planting maintenance and minor site improvements and will work with local schools groups on volunteer and research projects. The Conservancy shall also provide informational, educational and outreach services the public under the general supervision of the Commissioner.

The Conservancy shall operate as granted hereunder for the accommodation of the public at such times and in such manner as the Commissioner, or his authorized designee, may reasonably prescribe.

3. Term: The term of this Agreement shall commence on March 20, 2019 and expire on March 19, 2024, unless sooner terminated as herein provided. The County at its sole option may renew this Agreement for an additional five (5) year term.

4. Annual Fee: As compensation for the privileges granted pursuant to this Agreement the Conservancy shall pay an annual fee of One (\$1.00) Dollar.

5. The Conservancy agrees to procure and maintain liability and workers' compensation insurance naming the County as an additional insured, as provided and described in Schedule "A" entitled "Standard Insurance Provisions", which is attached hereto and made a part hereof.

In addition, the Conservancy agrees that, in the event it chooses to use a third party vendor to provide a service hereunder, that it will insure that the Vendor provides the County Director of Risk Management with proof of liability and workers' compensation insurance naming both the County of Westchester and the Conservancy as additional insured's, as provided in Schedule "A".

In addition to, and not in limitation of the insurance provisions contained in Schedule "A", the Conservancy agrees that, except for the amount, if any, of damage contributed to, caused by or resulting from the sole negligence of the County, the Conservancy will indemnify and hold harmless the County, its officers, employees and agents, from and against any and all liability, damages, claims, demands, costs, judgments, fees, attorneys' fees or loss arising directly or indirectly out of the negligent acts or omissions of the Conservancy or third parties under the direction or control of the Conservancy and to provide defense for and defend, at the Conservancy's sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this agreement and to bear all other costs and expenses related thereto. In the event the Conservancy does not provide the above defense and indemnification to the County, and

such refusal or denial to provide the above defense and indemnification is found to be in breach of this provision, then the Conservancy shall reimburse the County's reasonable attorney's fees incurred in connection with the defense of any action, and in connection with enforcing this provision of the Agreement.

6. Accounts: The Conservancy shall keep accurate books and records of its business operations hereunder in accordance with generally accepted accounting principles and in a manner acceptable to the County. Upon request of the County, the Conservancy shall furnish to the County an audited financial statement of its receipts prepared by a Certified Public Accountant. Said statement shall be furnished annually at such times as shall be designated by the County. The County shall have the right to inspect and audit, or call for an independent audit of such records at all reasonable times.

7. Fixed Equipment: It is understood and agreed that the Conservancy shall have the use of all fixed equipment, if any, now on the Park premises belonging to the County. The Conservancy, on demand of the County, shall install all further equipment reasonably necessary for the safe and proper operation of its activities hereunder and shall make full payment for the same, and shall maintain all equipment, fixed and expendable, in good order and repair at the Conservancy's sole cost and expense during the term of this Agreement. Plans and specifications for all additional and fixed equipment shall be submitted to the Commissioner for approval before being delivered to or installed in the said premises and the installation shall be subject to inspection and approval of the Commissioner.

Copies of bills of sale or other evidence of purchase shall be delivered to the Commissioner within ninety (90) days after delivery as hereinabove mentioned, and the schedule of fixed equipment shall also list and include the exact article or articles which have been installed at the premises during the term of this Agreement.

Title to all equipment provided by the Conservancy, except fixed equipment, shall remain the Conservancy's and such equipment shall be removed by the Conservancy at the termination of this Agreement, except as otherwise provided herein. Should any such property remain at the Park for more than ninety (90) days after such expiration or termination, the County may deal with such as though same had been abandoned.

8. Alterations: The Conservancy shall not make any alterations, additions or improvements to the aforesaid premises without the prior written approval of the Commissioner. Any such alterations, additions and improvements shall immediately become the property of the County upon their annexation to the property.

9. Inspection: The Commissioner or his authorized representative shall be entitled to enter any space assigned to the Conservancy hereunder for the purpose of inspecting, observing and monitoring any aspect of the Conservancy's operations. Such inspection shall, whenever feasible, be performed during normal working hours and shall not unreasonably interfere with the Conservancy's operations hereunder. The Conservancy shall also permit inspection of same by any federal, state, county or

municipal officer having jurisdiction. The Conservancy shall cooperate with the County to promptly remedy any and all violations issued as a result of such inspection.

10. Flammables: The Conservancy shall not use or store any explosives, toxic materials or flammables including, but not limited to, illuminating oils, candles, oil lamps, turpentine or benzene, on or about the authorized premises.

11. Investigations: The Conservancy, may be required to furnish the County with the names of its officers and a statement of which officer or officers will be actively engaged in the operation of this Agreement. The Conservancy shall immediately notify the County in the event that any officer of the corporation shall, during the term of this Agreement, relinquish its offices. The Conservancy shall, when requested to do so by the County, furnish all relevant information and cooperate fully in any investigation of its corporate activities or the activities of any of its officers and employees.

12. Conduct of Operations: The operations of the Conservancy, its employees, invitees and business guests shall be conducted in an orderly and proper manner so as not to annoy, disturb or offend other Licensees and persons using the County's recreational facilities. The Conservancy shall immediately remove the cause of any objection made by the County regarding the demeanor, conduct and appearance of such employees, invitees or business guests.

13. Assignment: The Conservancy shall not assign, sublet, subcontract or otherwise dispose of this Agreement or any right, duty or interest therein without the prior written consent of the Commissioner nor shall this Agreement be transferred by operation of law, it being the purpose and spirit of this instrument to grant this Agreement and privilege personally and solely to the Conservancy named herein. No assignment, subcontracting, subletting or other such disposition of this Agreement, either with or without such consent of the Commissioner, shall serve to relieve the Conservancy of its obligations hereunder.

14. Fire, Damage, Destruction: In the event the authorized premises or any building or structure thereon, become unfit for use or occupancy due to damage by fire or other casualty, this Agreement shall terminate and the County shall have no liability to the Conservancy hereunder provided.

15. Termination: The Commissioner, upon sixty (60) days written notice, may terminate this Agreement with or without cause, when he deems it to be in the County's best interest. In the event the Conservancy defaults in the performance of any of the terms of this Agreement, the Commissioner may terminate this Agreement upon ten (10) days written notice to the Conservancy, provided the Conservancy may cancel such termination by curing the default specified in the notice within the said ten (10) day period.

16. Permits & Regulations: The Conservancy shall, at its sole cost and expense, procure and maintain in full force and effect for the term of this Agreement, all permits,

licenses and approval from governmental authorities having jurisdiction required for the lawful operation of this Agreement. The Conservancy shall comply with all applicable federal, state and local laws, rules, regulations and orders.

17. No Lease: It is expressly understood and agreed that no building, structure, equipment or space is leased to the Conservancy and the Conservancy's privilege to use and occupy any space assigned to it for the operation of this Agreement shall continue only so long as the Conservancy shall continue to comply with each and every term and condition of this Agreement.

18. Risk of Operation: (a) The Conservancy assumes all risks in the operation of this Agreement. The Conservancy shall comply with any published rules and regulations prescribed by the County for operations at its recreational facilities and the directives of the Commissioner in relation thereto. Upon request, the County shall furnish a copy of such rules and regulations to the Conservancy.

(b) All employees hired and/or utilized by the Conservancy are the Conservancy's employees and are not employees of the County of Westchester.

19. Notices: All notices hereunder shall be in writing and shall be deemed given when delivered by hand or mailed postage prepaid, certified mail, return receipt requested, addressed as follows:

To the County:

Commissioner  
Department of Parks, Recreation and Conservation  
450 Saw Mill River Road  
Ardsley, New York 10502

with a copy to:

County Attorney  
148 Martine Avenue  
White Plains, New York 10601

To the Conservancy:

The Bronx River Parkway Reservation Conservancy, Inc.  
81 Pondfield Road, Suite D277  
Bronxville, New York, 10708

or to such other addresses as either party may designate by written notice to the other.

20. Remedies Cumulative: The failure of the County to insist in any one or more instances, upon strict performance of any term or condition herein contained shall not be

deemed a waiver or relinquishment for the future of such term or condition, but the same shall remain in full force and effect. No waiver by the County of any provision hereof shall be implied.

21. Independent Contractor: The Conservancy and the County agree that the Conservancy and its officers, employees, agents, contractors, subcontractors and/or consultants are independent contractors and not employees of the County or any department, agency or unit thereof. In accordance with their status as independent contractors, the Conservancy covenants and agrees that neither the Conservancy nor any of its officers, employees, agents, contractors, subcontractors and/or consultants will hold themselves out as, or claim to be, officers or employees of the County or any department, agency or unit thereof.

22. MBE\WBE: Pursuant to Section 308.01 of the Laws of Westchester County, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by persons of color or women in contracts and projects funded by all departments of the County. Attached hereto and forming a part hereof as Schedule "B" is a Questionnaire entitled Business Enterprises Owned and Controlled by Persons of Color or Women. The Contractor agrees to complete the questionnaire attached hereto as Schedule "B", as part of this Agreement.

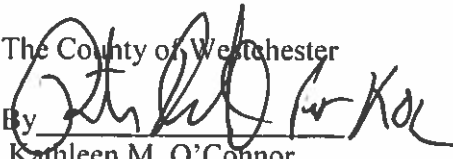
23. Required Disclosure of Relationships: Attached hereto and forming a part hereof as Schedule "C" is a questionnaire entitled "Required Disclosure of Relationships to County." The Conservancy agrees to complete said questionnaire as part of this Agreement. In the event that any information provided in the completed questionnaire changes during the term of this Agreement, the Conservancy agrees to notify County in writing within ten (10) business days of such event.

24. Disabled Veteran-Owned Business Questionnaire. The County believes it is a laudable goal to provide business opportunities to veterans who were disabled while serving our country, and wants to encourage the participation in County contracts of certified business enterprises owned and controlled by service-disabled veterans. As part of the County's program to encourage the participation of such business enterprises in County contracts, and in furtherance of Article 17-B of the New York State Executive Law, the Licensee agrees to complete the questionnaire entitled Questionnaire Regarding Business Enterprises Owned and Controlled by Service-Disabled Veterans attached hereto as Schedule "D", as part of this Agreement.

24. Criminal Background Disclosure: The Conservancy agrees to complete the Criminal Background Disclosure as required by Executive Order No. 1-2008 and attached hereto as Schedule "E" which is hereby incorporated by reference.

25. Approvals: This Agreement shall not be enforceable until signed by both parties and approved as to form and manner of execution by the office of the County Attorney.

In Witness Whereof, the parties hereto have executed this Agreement.

The County of Westchester  
By   
Kathleen M. O'Connor  
Commissioner  
Department of Parks,  
Recreation and Conservation

The Bronx River Parkway Reservation  
Conservancy, Inc.

By   
President

Authorized by the Board of Acquisition and Contract of the County of Westchester on  
the ~~14~~ day of ~~June~~, 2019.

~~4th~~ ~~April~~

Approved as to form and  
manner of execution:

 8/26/19

Assistant County Attorney

The County of Westchester

PRC/1/76138/Brx River Prkwy Conserv. Agmt 09

ACKNOWLEDGMENT

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

On the 19<sup>th</sup> day of June in the year 2019 before me, the undersigned, a Notary Public in and for said State, personally appeared Suzanne Nohr, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument; and, acknowledged if operating under any trade name, that the certificate required by the New York State General Business Law Section 130 has been filed as required therein.

David J. Kiliany  
Signature and Office of individual  
taking acknowledgement

Notary Public,  
Westchester County, N.Y.  
I.D. # 01 RI 6330236



**CERTIFICATE OF AUTHORITY**

I, ROBERT L. DELTORTO,  
(Officer other than officer signing contract)

certify that I am the VICE PRESIDENT of  
(Title)  
the BRONX RIVER PARKWAY RESERVATION CONSERVANCY INC.  
(the "Corporation")

a corporation duly organized and in good standing under the (Law under which organized,  
e.g., the New York Business Corporation Law) named in the foregoing agreement; that  
SUZANNE NOLAN  
(Person executing agreement)

who signed said agreement on behalf of the Corporation was, at the time of execution  
PRESIDENT  
(Title of such person)

of the Corporation and that said agreement was duly signed for and on behalf of said  
Corporation by authority of its Board of Directors, thereunto duly authorized and that such  
authority is in full force and effect at the date hereof.

Robert L. Deltorto  
(Signature)

STATE OF NEW YORK )

ss.:

COUNTY OF WESTCHESTER)

On the 19<sup>th</sup> day of June in the year 2019 before me, the undersigned,  
a Notary Public in and for said State, personally appeared Robert L. Deltorto, personally  
known to me or proved to me on the basis of satisfactory evidence to be the individual whose  
name is subscribed to the within instrument and acknowledged to me that he/she executed the  
same in his/her capacity, and that by his/her signature on the instrument, the individual, or the  
person upon behalf of which the individual acted, executed the instrument; and,  
acknowledged if operating under any trade name, that the certificate required by the New  
York State General Business Law Section 130 has been filed as required therein.

David J. Kilbray  
Signature and Office of individual  
taking acknowledgement

Notary Public,  
Westchester, N.Y.

9, I.D. # 01KID6330236

## **SCHEDULE "A"**

### **STANDARD INSURANCE PROVISIONS**

1. Prior to commencing work, and throughout the term of the Agreement, the Licensee shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Licensee shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Licensee and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Licensee shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the Licensee to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the Licensee to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Licensee from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Licensee concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of Licensee's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Licensee until such time as the Licensee shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Licensee maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Licensee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2 The Licensee shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.web.ny.gov>.

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- b) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.l) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:
  - i. Premises - Operations.
  - ii. Broad Form Contractual.
  - iii. Independent Contractor and Sub-Contractor.
  - iv. Products and Completed Operations.

- c) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured. written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

- d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "County of Westchester" as additional insured:
  - (i) Owned automobiles.
  - (ii) Hired automobiles.
  - (iii) Non-owned automobiles.
- e) Directors and Officers Liability. The Licensee shall provide proof of such insurance. (Limits of \$1,000,000 per occurrence/\$2,000,000 aggregate).

3. All policies of the Licensee shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Licensee.

## **SCHEDULE "B"**

### **QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES OWNED AND CONTROLLED BY WOMEN OR PERSONS OF COLOR**

As part of the County's program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in County contracts, and in furtherance of Section 308.01 of the Laws of Westchester County, completion of this form is required.

A "business enterprise owned and controlled by women or persons of color" means a business enterprise, including a sole proprietorship, limited liability partnership, partnership, limited liability corporation, or corporation, that either:

- 1.) meets the following requirements:
  - a. is at least 51% owned by one or more persons of color or women;
  - b. is an enterprise in which such ownership by persons of color or women is real, substantial and continuing;
  - c. is an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and
  - d. is an enterprise authorized to do business in this state which is independently owned and operated.
- 2.) is a business enterprise certified as a minority business enterprise ("MBE") or women business enterprise ("WBE") pursuant to Article 15-a of the New York State Executive Law and the implementing regulations, 9 New York Code of Rules and Regulations subtitle N Part 540 et seq., **OR**
- 3.) is a business enterprise certified as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

Please note that the term "persons of color," as used in this form, means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups:

- (a) Black persons having origins in any of the Black African racial groups;
- (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race;
- (c) Native American or Alaskan native persons having origins in any of the original peoples of North America; or
- (d) Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

1. Are you a business enterprise owned and controlled by women or persons of color in

accordance with the standards listed above?

X No

\_\_\_\_\_ Yes

**Please note: If you answered "yes" based upon certification by New York State and/or the Federal government, official documentation of the certification must be attached.**

2. If you answered "Yes" above, please check off below whether your business enterprise is owned and controlled by women, persons of color, or both.

\_\_\_\_\_ Women

\_\_\_\_\_ Persons of Color (*please check off below all that apply*)

\_\_\_\_\_ Black persons having origins in any of the Black African racial groups

\_\_\_\_\_ Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race

\_\_\_\_\_ Native American or Alaskan native persons having origins in any of the original peoples of North America

\_\_\_\_\_ Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian sub-continent or the Pacific Islands

Name of Business Enterprise: Bronx River Parkway Reservation Conservancy  
Address: 81 Pondfield Road, Suite D277, Bronxville, NY 10708

Name and Title of person completing questionnaire: Suzanne Nolan,  
President

Signature: Suzanne Nolan

Daniel J. Hilkey  
Notary Public

4/19/15  
Date

Westchester County, N.Y.  
ID # 01K IB330236

Contract #: PRC-1211  
Name of Contractor: Bronx River Parkway Reservation  
Conservancy

**SCHEDULE "C"**  
**REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY**

*A potential County contractor must complete this form as part of the proposed County contract.*

- 1.) Are any of the employees that the Contractor will use to carry out this contract also a County officer or employee, or the spouse, child, or dependent of a County officer or employee?

Yes \_\_\_\_\_ No X

If yes, please provide details (attach extra pages, if necessary): \_\_\_\_\_

- 2.) Are any of the owners of the Contractor or their spouses a County officer or employee?

Yes \_\_\_\_\_ No X

If yes, please provide details (attach extra pages, if necessary): \_\_\_\_\_

- 3.) Do any County officers or employees have an interest<sup>1</sup> in the Contractor or in any approved subcontractor that will be used for this contract?

Yes \_\_\_\_\_ No X

If yes, please provide details (attach extra pages, if necessary): \_\_\_\_\_

By signing below, I hereby certify that I am authorized to complete this form for the Contractor.

Suzanne Nolan  
Name: Suzanne Nolan  
Title: President  
Date: 6/19/19

<sup>1</sup> "Interest" means a direct or indirect pecuniary or material benefit accruing to a County officer or employee, his/her spouse, child or dependent, whether as the result of a contract with the County or otherwise. For the purpose of this form, a County officer or employee shall be deemed to have an "interest" in the contract of:

- 1.) His/her spouse, children and dependents, except a contract of employment with the County;
- 2.) A firm, partnership or association of which such officer or employee is a member or employee;
- 3.) A corporation of which such officer or employee is an officer, director or employee; and
- 4.) A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

**SCHEDULE "D"**  
**For Informational Purposes Only**  
**QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES**  
**OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS**

The County believes it is a laudable goal to provide business opportunities to veterans who were disabled while serving our country, and wants to encourage the participation in County contracts of certified business enterprises owned and controlled by service-disabled veterans. As part of the County's program to encourage the participation of such business enterprises in County contracts, and in furtherance of Article 17-B of the New York State Executive Law, we request that you answer the questions listed below.

The term "Certified Service-Disabled Veteran-Owned Business" shall mean a business that is a certified service-disabled veteran-owned business enterprise under the New York State Service-Disabled Veteran-Owned Business Act (Article 17-B of the Executive Law).

1. Are you a business enterprise that is owned and controlled by a service-disabled veteran in accordance with the standards listed above?

  X   No  
       Yes

2. Are you certified with the State of New York as a Certified Service-Disabled Veteran-Owned Business?

       No  
       Yes

3. If you are certified with the State of New York as a Certified Service-Disabled Veteran-Owned Business, please attach a copy of the certification.

Name of Firm/Business Enterprise: Bronx River Parkway Reservation Conservancy  
Address: 81 Pondfield Rd, Suite D277, Bronxville NY 10708  
Name/Title of Person completing Questionnaire: President  
Signature: *Sybil Miller*

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

*David J. Killian*  
Notary Public

Date: 6/19/19 Westchester County, N.Y.  
I.D. # 021416330226



**SCHEDULE "E"**  
**CRIMINAL BACKGROUND DISCLOSURE**  
**INSTRUCTIONS**

Pursuant to Executive Order 1-2008, the County is required to maintain a record of criminal background disclosure from all persons providing work or services in connection with any County contract, including leases of County-owned real property and licenses:

- a.) If any of the persons providing work or services to the County in relation to a County contract are not subject to constant monitoring by County staff while performing tasks and/or while such persons are present on County property pursuant to the County contract; and
- b.) If any of the persons providing work or services to the County in relation to a County contract may, in the course of providing those services, have access to sensitive data (for example SSNs and other personal/secure data); facilities (secure facilities and/or communication equipment); and/or vulnerable populations (for example, children, seniors, and the infirm).

In those situations, the persons who must provide a criminal background disclosure ("Persons Subject to Disclosure") include the following:

- a.) Consultants, Contractors, Licensees, Lessees of County-owned real property, their principals, agents, employees, volunteers or any other person acting on behalf of said Contractor, Consultant, Licensee, or Lessee who is at least sixteen (16) years old, including but not limited to Subconsultants, subcontractors, Sublessess, or Sublicensees who are providing services to the County, and
- b.) Any family member or other person, who is at least sixteen (16) years old, residing in the household of a County employee who lives in housing provided by the County located on County property.

Under Executive Order 1-2008, it is the duty of every County Consultant, Contractor, Licensee, or Lessee to inquire of each and every Person Subject to Disclosure and disclose whether they have been convicted of a crime or whether they are subject to pending criminal charges, and to submit this form with that information.<sup>1</sup> Accordingly, you are required to complete the attached Criminal Background Disclosure Form and Certification.

Please note that under no circumstances shall the existence of a language barrier serve as a basis for the waiver of or an exception from the disclosure requirements of Executive Order 1-2008. If translation services are required by the Consultant, Contractor, Licensee, or Lessee to fulfill this obligation, it shall be at the sole cost and expense of the Consultant, Contractor, Licensee, or Lessee.

Please also note that the conviction of a crime(s) and/or being subject to a pending criminal

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<sup>1</sup> For these disclosures, a "crime" or "pending criminal charge" includes all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State.

charge(s) will not automatically result in a denial of a person's right to work on a County contract, right to be on County property, or license, but may, if the County determines that the prior conviction(s) or pending criminal charge(s) create an unacceptable risk. However, if a person fails to list or falsifies any part of his/her conviction history or any pending criminal charge(s) for any reason, he/she may be prohibited from working or being on County property without any risk assessment. If it is later determined that a Person Subject to Disclosure failed to disclose a criminal conviction or pending criminal charge for any reason, his/her right to work on a County contract, be on County property, or license may be terminated at any time.

Please further note that, pursuant to Executive Order 1-2008, and subject to the applicable provisions of New York Correction Law §§ 752 and 753, the County has the right to bar a Person Subject to Disclosure from providing work or services to the County or from being on County property if any such person has:

- a.) A conviction of a crime(s);
- b.) A pending criminal proceeding for a crime(s); or
- c.) Refused to answer questions concerning his/her criminal background

Please finally note that any failure by a County Consultant, Contractor, Licensee, or Lessee to comply with the disclosure requirements of Executive Order 1-2008 may be considered by the County to be a material breach and shall be grounds for immediate termination by the County of the related County contract.

### **Exemptions**

Executive Order 1-2008 exempts from the aforementioned disclosure requirements Persons Subject to Disclosure:

- a.) for whom the County has already conducted a background check and issued a security clearance that is in full force and effect; and
- b.) for whom another state or federal agency having appropriate jurisdiction has conducted a security and/or background clearance or has implemented other protocols or criteria for this purpose that apply to the subject matter of a County contract that is in full force and effect.

If you are claiming an exemption for one or more Persons Subject to Disclosure, you must notify the Procuring Officer<sup>2</sup>. The Procuring Officer will then determine whether the Person(s) Subject to Disclosure are actually exempt, and provide written notification of his/her determination. If the Procuring Officer determines that a Person Subject to Disclosure is not exempt, the Procuring Officer will notify you of that determination, and you will have to include disclosures for that person on your Criminal Background Disclosure Form and Certification.

### **Subconsultants, Subcontractors, Sublessees, or Sublicensees**

Under Executive Order 1-2008, it is your duty to ensure that any and all approved

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<sup>2</sup> Procuring Officer" shall mean the head of the department or the individual or individuals authorized by the head(s) of the department(s) undertaking the procurement and with respect to those matters delegated to the Bureau of Purchase and Supply pursuant to Section 161.11(a) of the Laws of Westchester County, the Purchasing Agent.

subconsultants, subcontractors, sublessees, or sublicensees complete and submit the attached Criminal Background Disclosure Form and Certification for all of their respective Persons Subject to Disclosure. This must be done before such a subconsultant, subcontractor, sublessees, or sublicensees can be approved to perform work on a contract.

**New Persons Subject to Disclosure**

Under Executive Order 1-2008, you have a **CONTINUING OBLIGATION** to maintain the accuracy of the Criminal Background Disclosure Form and Certification (and any accompanying documentation) for the duration of this contract, including any amendments or extensions thereto. Accordingly, it is your duty to complete and submit an updated Criminal Background Disclosure Form and Certification whenever there is a new Person Subject to Disclosure for this contract. **NO NEW PERSON SUBJECT TO DISCLOSURE SHALL PERFORM WORK OR SERVICES OR ENTER ONTO COUNTY PREMISES UNTIL THE UPDATED CRIMINAL BACKGROUND DISCLOSURE FORM AND CERTIFICATION IS FILED WITH THE PROCURING OFFICER.** You shall also provide the County with any other updates that may be necessary to comply with the disclosures required by Executive Order 1-2008.

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*PLEASE CONTINUE TO THE*

*Criminal Background Disclosure Form and Certification*

*BEGINNING ON THE NEXT PAGE*

Contract #: PRC-1211  
Name of Consultant, Contractor, Lessee, or Licensee: BRONX RIVER PARKWAY REGENERATION  
CRIMINAL BACKGROUND DISCLOSURE  
FORM AND CERTIFICATION Concealment

If this form is being completed by a subconsultant, subcontractor, sublessee, or sublicensee, please consider all references in this form to "consultant, contractor, lessee, or licensee" to mean "subconsultant, subcontractor, sublessee, or sublicensee" and check here: \_\_\_\_\_

I, Suzanne Nolan, certify that I am a principal  
or a  
(Name of Person Signing Below)

representative of the Consultant, Contractor, Lessee, or Licensee and I am authorized to complete and execute this Criminal Background Disclosure Form and Certification. I certify that I have asked each Person Subject to Disclosure the following questions:

- Have you or your company ever been convicted of a crime (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State) including, but not limited to, conviction for commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property?
- Are you or your company subject to any pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State)?

I certify that the names and titles of Persons Subject to Disclosure who refused to answer either of the questions above are:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

(If more space is needed, please attach separate pages labeled "REFUSED to Answer - Continued.")

I certify that the names and titles of Persons Subject to Disclosure who answered "Yes" to **either of the** questions above are:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

(If more space is needed, please attach separate pages labeled "YES Answers - Continued.")

Each Person Subject to Disclosure listed above who has either **been convicted of a crime(s)** and/or is **subject to a pending criminal charge(s)** must answer additional questions. Those questions are below.

A Person Subject to Disclosure who has **been convicted of a crime(s)** must respond to the following (please attach separate pages with responses for each person, with their name and title):

- 1.) Describe the reason for being on County property if applicable, identify the specific duties and responsibilities on this project which you intend to perform for the County, including but not limited to, access to sensitive data and facilities and access to vulnerable populations.
- 2.) Please list all criminal convictions along with a brief description of the crime(s) (including all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State).
- 3.) Please provide the date and place of each conviction.
- 4.) Please provide your age at the time of each crime for which you were convicted.
- 5.) Please provide the legal disposition of each case.
- 6.) Please provide any information either produced by yourself or someone on your behalf in regards to your rehabilitation and good conduct.

A Person Subject to Disclosure who is **subject to a pending criminal charge(s)** must respond to the following (please attach separate pages with responses for each person, with their name and title):

- 1.) Describe the reason for being on County property and if applicable, identify the specific duties and responsibilities

on this project which you intend to perform for the County, including but not limited to, access to sensitive data and facilities and access to vulnerable populations.

- 2.) Please identify all pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State).
- 3.) Please briefly describe the nature of the pending charges and the date upon which it is alleged that a crime was committed.

I hereby certify that all of the information provided herein (and in any and all attachments) is true and accurate and that all disclosures required by Executive Order 1-2008 and this Criminal Background Disclosure Form and Certification have been completed. By my signature below, I hereby affirm that all of the facts, statements and answers contained herein (and in any and all attachments) are true and correct. I understand that providing false or incomplete information or withholding by omission or intention pertinent information will be cause for refusing further consideration of my being utilized under this contract.

**It is understood and agreed that no Person Subject to Disclosure shall perform work or services or enter onto County property until this required Criminal Background Disclosure Form and Certification is filed with the Procuring Officer.**

**It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to perform work or provide services under this contract after filing of this Criminal Background Disclosure Form and Certification with the Procuring Officer, such new Persons Subject to Disclosure shall not perform work or provide services or enter into County property until an updated Criminal Background Disclosure Form and Certification has been filed with the Procuring Officer.**

**It is further understood and agreed that the consultant, contractor, lessee, or licensee has a continuing obligation to maintain the accuracy of the Criminal Background Disclosure Form and Certification for the duration of this contract, including any amendments or extensions thereto, and shall provide any updates to the information to the County as necessary to comply with the requirements of Executive Order 1-2008.**

Name: Suzanne Nolan  
Title: President  
Date: 6/19/19

Daniel J. Killian  
Notary Public

6/19/19  
Date

Westchester County, N.Y.

I.D.# 01KI6330236