



721 Main Street
Buffalo, NY 14203

Request for Proposals

Professional Services for LaSalle Park Feasibility Study
City of Buffalo, Erie County, New York

March, 2019

REQUEST FOR PROPOSALS FOR:

Professional Services for LaSalle Park Feasibility Study
City of Buffalo, Erie County, New York

REQUESTED BY:
Buffalo Niagara Waterkeeper
721 Main Street
Buffalo, NY 14203
(716)852-7483
www.bnwaterkeeper.org

March, 2019

Jill Jedlicka, Executive Director
Renata Kraft, RLA, Deputy Executive Director
Katherine Winkler, Director of Waterway Revitalization



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I. INTRODUCTION

A. INVITATION TO SUBMIT PROPOSALS

Buffalo Niagara Waterkeeper (BNW) is a community-based, not-for-profit organization that leads the region's effort to safeguard water resources for present and future generations and connect them to the water. BNW received funding from the Ralph C. Wilson Jr. Foundation to conduct a hydrologic assessment of the Niagara River at the Black Rock Canal and as it relates to the waterfront of LaSalle Park, Buffalo NY. This funding leverages and advances funding from New York State's Empire State Development (ESD) to create and enhance water-based public access sites along the Buffalo Blueway which includes Lake Erie, the Niagara River, the Black Rock Canal, and Scajaquada Creek in Buffalo River, NY.

BNW is seeking to retain a Consultant, or team of Consultants (Consultant) to provide professional services to analyze the feasibility of installing a breakwater, paddle-sport launch, and shoreline habitat features including review of previous studies of the area, determination of data gaps, collection of relevant data, and recommendations on the feasibility of the proposed project implementation.

B. PROJECT SUMMARY

The long-term vision for this project is to implement a vibrant public access point from LaSalle Park to the Niagara River and Black Rock Canal while incorporating critical in-water and riparian habitat and the safety of park visitors and protection of nearby private property. As far back as 1998, it was noted that unique opportunities exist to enhance LaSalle Park with ecologically sensitive improvements including converting seawall areas to living shorelines, recreating wetlands along the shoreline, and planting native vegetation.

The inlet (lagoon) area of the park has been specifically identified as a potential area for habitat restoration and shoreline access if a breakwater were to be installed; however, the feasibility of this proposed plan has not yet been studied. This project aims to review and collect relevant data to determine if the inlet area would be an appropriate place to install habitat features and if the remaining shoreline could be suitable to provide public access if a breakwater were installed. The installation of a breakwater, whether traditional or not, is allowable in that area. All work performed for BNW must be accomplished with the protection of water resources and the environment in mind.

C. SITE DESCRIPTION, HISTORY AND CONTEXT

LaSalle Park, located south of Porter Avenue between the edge of the Niagara River and the NYS Thruway, is owned and maintained by the City of Buffalo (see Attachment A, Figure 1). The park, as it is today, was created in the 1920's by filling in the shallow water area of the



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Niagara River and Black Rock Canal to create a waterfront park to celebrate the City's centennial in 1932.

The park is home to the historic Colonel Ward Pumping Station and Buffalo's Centennial Pool and provides a waterfront path from northern Erie County to downtown Buffalo. On the south end of the park, a seaplane deck and ramp were constructed in the notched inlet (lagoon) area of the park but were never used to much extent. The park also provides public activities such as playing fields, an amphitheater, and ample opportunities for walking, jogging, and bicycling.

The LaSalle Park Master Plan was completed in February 1998 by De Leuw, Cather, and Company on behalf of the City of Buffalo. The Plan emphasized that "the major project focus includes enhanced waterfront access and improved recreation for the community." with the aim of establishing a more passive waterfront edge. The 2017 Final Design Report for LaSalle Park Design and Waterfront Access gathered input from a Steering Committee and the general public on what improvements would be most desirable. The preferred concept plan, developed only to a schematic level, advanced the desire to have a public access point in the lagoon if protected by a breakwater system.

In October 2018, it was announced that the Ralph C. Wilson Jr. Foundation had pledged \$50 million to transform LaSalle Park into a world class waterfront park with the new moniker of Ralph C. Wilson Jr. Centennial Park. Planning efforts for the project have already begun and BNW is working closely with the planning committee to ensure that the park provides equitable access to the waterfront while providing ecological benefits. Please visit: <http://regional-institute.buffalo.edu/project/imagine-lasalle/> for additional information on Imagine LaSalle.

II. PROPOSAL SUBMITTAL REQUIREMENTS

A. EXECUTIVE SUMMARY AND PROJECT APPROACH LETTER

Consultants must submit an executive summary and project approach letter showing understanding of the project goals and deliverables and a general description of the services that the Consultant proposes to provide to BNW. Recommendations for tasks or deliverables not defined in the *Anticipated Scope of Services* as outlined below should be clearly highlighted in the Project approach letter and work plan. The letter must be signed by a person authorized by the Consultant to obligate the Consultant to perform the commitments contained in the proposal. Submission of the letter will constitute a representation by your firm that your firm is willing and able to perform the commitments contained in the proposal.

B. RESPONDENT QUALIFICATIONS



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All Consultants submitting a proposal shall be actively engaged and experienced in, and/or shall subcontract to sub-consultants who are directly experienced in, the nature of the work described in this RFP. The project team must include a member with hydrological engineering experience. Respondents shall submit an organizational description, organizational chart (with designation of Primary Point of Contact), and resumes of the primary project team members and sub-consultants. Respondents should also provide a minimum of five (5) examples and references for projects of a similar nature that have been completed by the Consultant team. Respondents shall be willing to travel to, and be present at, on-site and off-site professional and public meetings and work proactively with Project partners.

C. ANTICIPATED SCOPE OF SERVICES

Task 01 – Kick-off Meeting

Within ten (10) business days of BNW executing a contract, the selected Consultant will participate in a Project Kick-off Meeting with BNW. The purpose of the meeting will be to introduce all members of the Project Team (including the City of Buffalo) , review Project communication protocols, review the final Scope of Services, review and finalize the Project Schedule, and to discuss milestones and deliverables.

Task 02 – Background Data Collection and Data Gaps Report

Consultant shall perform all necessary site visits and reconnaissance of the Project Site. Consultant will acquire previous studies and reports related to LaSalle Park and the impact area of the Black Rock Canal, Lake Erie, and Niagara River. These studies and reports will be reviewed and analyzed by the Consultant and a Data Gaps report will be generated (submitted to BNW and the City for review and comment) identifying any data gaps and analysis that are needed in order to determine the feasibility of the long term vision. This Data Gaps report will guide contract negotiations and updated Scope of Services.

Task 03 – Monthly Reporting

Monthly Progress Reports shall be required and be submitted to BNW. Reporting due dates will be set by BNW and will be identified in the Agreement between BNW and the selected Consultant.

Task 04 – Data Collection and Feasibility Study

Upon BNW's and the City's review and approval of the Data Gaps Report, Consultant shall perform all necessary data collection identified in the report. The data will be then analyzed by the Consultant and the results presented to BNW and the City in the form of a Feasibility Study which adequately describes the Project site so as to inform the feasibility of the



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development of the 2017 preferred conceptual design or modified design based on on-going planning efforts (public access site and habitat improvements protected by break wall).

A standard access agreement with insurance must be provided to the City before the consultant conducts work on the site (See Attachment D).

Task 05 – Permitting/ Approvals

Consultant shall identify and obtain any required permits or landowner/agency approvals necessary for the collection of data for the Project. In partnership with BNW, Consultant shall coordinate communications with all permitting agencies and authorities, and prepare all permit applications. Permit fees shall be identified by the Consultant and payment of such will be the responsibility of BNW.

Task 06 – Final Reporting

A final report stating the goals of the Project and tasks completed to reach those goals will be required from the selected Consultant at the time of their request for final payment. A draft report must be submitted for review and comment by BNW and the City. The following items must be included as a separate appendix to the final Project report:

1. Existing data collected;
2. Data Gaps Report;
3. Newly acquired data;
4. Existing conditions / feasibility report;
5. Summary of all monthly progress reports submitted to BNW.

D. PROJECT SCHEDULE

The Consultant must agree to commence work on the issue date and to fully complete the Project within the time limit specified in the Agreement. All deliverables identified in the Scope of Services are targeted for completion by August 1, 2019 or at such later date as shall be established by BNW.

E. PRICING PROPOSAL

Pricing proposal should include the total cost for Consultant services for Tasks 01, 02, and 03. Please provide a 2019 hourly rate schedule as costs for Task 04, 05, and 06 will be negotiated based on results of the Data Gaps report (Task 02).

The cost and pricing must be broken down by each task and sub-task. Each task and subtask deliverable must be identified in the same order as it was outlined within the *Anticipated Scope of Services*. Please include a total price for completion of these tasks at the bottom of the cost proposal.



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F. REQUIRED STATEMENTS

1. Statement that the proposer is not currently employed by, or affiliated with, Buffalo Niagara Waterkeeper.
2. Statement providing availability of all required insurance at the time of contract execution and that the selected Consultant will hold BNW and landowner harmless during the contract period.
3. Statements that the Consultant and employees are legally able to work in the United States and New York State specifically.

III. PROCUREMENT PROCESS

A. PROPOSAL SUBMISSION INSTRUCTIONS

Proposals must include, and be formatted, as per the following:

1. Executive summary and project approach letter
2. Respondent qualifications
3. Anticipated Scope of Services
4. Project Schedule
5. Pricing Proposal for Task 01, 02, and 03 and an hourly rate schedule for 2019.
6. Required Statements

Submission:

One (1) electronic version of the proposal contained on a CD or thumb-drive and two (2) hardcopies of the proposal are required to be submitted no later than **2:00 PM on April 12, 2019**. Facsimile and email submissions **will not** be accepted. Proposal envelopes should be clearly labeled to identify the name of the proposer and the Project name.

Proposals must be delivered to:

Katherine Winkler
Director of Waterway Revitalization
BUFFALO NIAGARA WATERKEEPER
721 Main Street
Buffalo, NY 14203

B. PROCUREMENT SCHEDULE

A pre-proposal meeting and site visit will be held, rain or shine, at 9:00AM on March 18, 2019 at the Project site location (parking available along the road at 42°53'16.36"N, 78°53'26.90"W). Attendance by the primary Consultant at the pre-proposal site visit is mandatory for those wishing to submit a proposal.



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Project proposals are due by **2:00 PM on April 12, 2019**

Consultant interviews, if deemed necessary by BNW, are anticipated to be held the week of April 22, 2019. All respondents will be notified in writing as to whether they were selected or not selected to provide the services described in this RFP by April 30th, 2019.

C. CONTRACT REQUIREMENTS

Agreement:

The Project will be awarded to one Consultant that will be held solely responsible for providing the professional services required for the Project.

The selected Consultant will be required to enter into a Consulting Agreement with BNW, using BNW's standard Agreement. A copy is provided as Attachment C. This Agreement serves as a SAMPLE only and is subject to change based on project requirements.

The Consultant will not begin any work outlined within the RFP prior to being notified by BNW in writing. The Consultant must agree to commence work on the date contained within the written notice and to fully complete the Project within the time limit specified in the Agreement.

Insurance:

The selected Consultant will be required to maintain the types and limits of insurance as outlined in Attachment C, Section 9. Insurance certificates naming Buffalo Niagara Waterkeeper as additional insured which reflect a Waiver of Subrogation, must be provided to BNW prior to the commencement of the Project.

Indemnification:

The selected Consultant will be required to indemnify and hold harmless BNW and their agents and employees in accordance with the indemnification clause as presented in the Sample Agreement (7. INDEMNIFICATION) provided as Attachment C.

IV. QUESTIONS REGARDING RFP

Responders who have any questions regarding this RFP are permitted to submit questions in writing to Juliann Parker, Administrative Assistant, at the following e-mail address: projects@bnwaterkeeper.org with the subject line "Questions Regarding RFP for LaSalle Park Feasibility Study".



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All questions must be received by 12:00 PM March 29, 2019. All questions will be answered in writing and sent to all Consultants who attended the mandatory pre-proposal meeting and site visit by April 5, 2019. No questions will be answered over the phone.

Other BNW personnel are **NOT** authorized to discuss this request for proposals with responders, before the proposal submission deadline. Contact regarding this RFP with any person not listed above could result in disqualification.

V. EVALUATION OF PROPOSALS

All proposals will be reviewed in accordance with, and be subject to, the criteria, procedures, submission requirements, and other requirements outlined in this RFP. Proposals will be evaluated based on: Clarity of proposal, understanding of the Project, Project schedule, qualifications of the project team, and previous relevant project experience. See Attachment B for Scoring Matrix.

After receipt and BNW's review of the proposals, BNW may, at its discretion, conduct interviews with one or more Consultants that submitted a proposal, to allow the shortlisted Consultant teams an opportunity to present their proposal to, and discuss it with, BNW, and to answer BNW's questions regarding their proposal. If a contract is to be awarded, BNW will award the contract to the Consultant whose proposal, at BNW's discretion, is in the best interest of the Project. Buffalo Niagara Waterkeeper is not required to select the lowest bidder.

VI. MISCELLANEOUS

BNW reserves the right to postpone or withdraw this RFP; to accept or reject any and all proposals; to modify or amend the terms of this RFP or to waive any requirement of this RFP with respect to one or more respondents; to negotiate or hold discussions during the interview process (if conducted) regarding the terms of any proposal received in response to this RFP or take any other actions with respect to issuance or award of this RFP; all as BNW may deem to be in the best interest of BNW and the Project.

BNW does not assume the responsibility or liability of costs incurred by Consultants responding to this RFP or to any subsequent requests for proposals, interviews, additional information, submissions, etc. prior to issuance of an Agreement.



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ATTACHMENT A

(Location Map)

FIGURE 1: SITE LOCATION MAP



MAP KEY:

PROPERTY BOUNDARY
PROJECT LIMIT (APPROX.)

NOTE:
1. EXISTING LAGOON AREA



Context Map (NTS)



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ATTACHMENT B

(Scoring Matrix)

PROPOSAL SCORECARD FOR PROFESSIONAL DESIGN SERVICES



Project Name: _____
 Consultant Team: _____
 Date Reviewed: _____
 Reviewer Initials: _____

PROPOSAL SUBMITAL REQUIREMENTS: All boxes must be checked "yes" by the project manager to begin scoring proposal			
	Y	N	Notes
Was consultant at pre-proposal walk?			
Was submission received by indicated deadline?			
Executive Summary and Project Approach Letter			
Organization Description			
Organizational Chart			
Designation of a Primary Point of Contact			
Resumes of Project Personnel			
Team includes a team member with hydrological engineering experience			
Resumes of sub-Consultants			
Five (5) References for Work of a Similar Nature			
Anticipated Scope of Services			
Project Schedule			
Pricing Proposal			
Statement that the Consultant is not Currently Employed by, or Affiliated with, BNW			
Statement Providing Availability of Required Insurance			
Statement of Legally Able to Work in the United States and NYS			

SCORING MATRIX		Score / 100 pts.
1 Clarity of Proposal: (5 pts.)		
Did the proposal demonstrate an understanding of the needs of the objectives of the project? (5 pts.)		
2 Understanding of the Project: (25 pts.)		
Did consultant team understand the objective, did they capture this understanding in the Executive Summary? (10 pts.)		
Did the project approach letter explain the process or how the Team will approach the scope? (15 pts.)		
3 Project Schedule: (10 pts.)		
Did the Team meet the proposed schedule, have they laid out their schedule in a way that predicts success of the project deliverables? (5 pts.)		
Project team's work plan (Scope of Services) delivers on all key tasks within the project schedule? (5 pts.)		
4 Qualifications of the Project Team: (35 pts.)		
Past performance of the Project Team, as a whole. Have they worked on similar project's together and are those successful? (15 pts.)		
Qualifications of individuals on the Team (20 pts.)		
5 Experience: (25 pts.)		
Past experience on 5 or more similar projects?		
TOTAL SCORE:		

ADDITIONAL COMMENTS



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ATTACHMENT C

(Sample Agreement)

**CONSULTING AGREEMENT BETWEEN
BUFFALO NIAGARA WATERKEEPER**

AND

XXXXXXX

FOR

XXXXXXX

This Consulting Agreement ("Agreement") is made effective as of XXXXXXXX by and between Buffalo Niagara WATERKEEPER and XXX.

In this Agreement, the party that is contracting to receive services, Buffalo Niagara WATERKEEPER, shall be referred to as "WATERKEEPER," and the party who will be providing the services, XXX, shall be referred to as "Consultant."

Consultant has a background in the area of XXX and is willing to provide services to WATERKEEPER pursuant to the terms and conditions of this Agreement.

WATERKEEPER desires to have services provided by Consultant and Consultant desires to provide services to WATERKEEPER.

Therefore, for mutual consideration, the sufficiency of which is acknowledged by the parties hereto, the parties agree as follows:

1. DESCRIPTION OF SERVICES.

- a. Consultant agrees to undertake, carry out and complete for WATERKEEPER in a satisfactory and competent manner, all of the work and services set forth in the Scope of Services attached hereto as Appendix A and made part of this Agreement.
- b. Consultant agrees to maintain close liaison with WATERKEEPER's project director to ensure a well-integrated project effort and to achieve performance goals during the Agreement. Consultant will meet weekly, unless otherwise agreed with the project manager and provide an electronic narrative and quantitative progress report to WATERKEEPER on dates, XXXXXXX, XXXXXXX, and XXXXXXX as well as the Final Contract Report, provided for in Appendix A, no later than XXXXXXX.

2. KEY PERSONNEL. WATERKEEPER's project manager is WATERKEEPER's (title, name) Consultant's project manager is XXX's (title, name)

3. TERM. This Agreement shall be effective on XXXXX and shall continue through XXXXXX unless terminated sooner or extended as hereinafter provided.

4. COMPENSATION AND MAXIMUM COST.

- a. In full and complete consideration of Consultant's satisfactory performance under this Agreement, WATERKEEPER agrees to pay Consultant an amount not to exceed XXXXX, including expenses, as follows:
 1. A monthly invoice will be submitted by the Consultant. Invoices shall provide a total percent complete for the project and the amount will be calculated based on the percentage.
 2. Payments are anticipated to be released by WATERKEEPER within 60 days of receipt of invoice from Consultant and the timing of said payments is contingent upon RIVERKEEPEP's reimbursement from **Funder** *[insert name of funder]*
 3. The amount stated above includes compensation and all expenses incurred by Consultant in direct support of performing the services outlined in Appendix A.
- a. Upon termination of this Agreement, payments under this paragraph shall cease, provided, that Consultant shall be entitled to full payment for each Task completed or goal achieved prior to the date of termination and for which Consultant has not yet been paid.

4. TERMINATION.

- a. Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other contracting party. In the case of termination by WATERKEEPER, Consultant shall, upon receipt of notice of termination, refrain from incurring any additional costs under this Agreement and shall use the best efforts to cancel any commitments made prior to receipt of such notice. Termination shall not affect any commitments of Consultant that have properly become legally binding prior to the effective date of termination. WATERKEEPER shall pay Consultant for each Task completed prior to Consultant's receipt of notice of termination and for each goal achieved within 30 days of Consultant's receipt of notice of termination. Any prepaid but unearned funds shall be returned to WATERKEEPER.
 - b. It is understood and agreed, in the event that WATERKEEPER has evidence that Consultant is in default upon any of its obligations hereunder, WATERKEEPER shall be entitled to either suspend the contract until an acceptable remedy is established or to terminate the Agreement. Such termination shall be effective immediately upon receipt of official written notification from WATERKEEPER. WATERKEEPER shall also be entitled to pursue any rights or remedies which WATERKEEPER may have against Consultant by reason of such default.
6. RELATIONSHIP OF PARTIES. It is understood by the parties that Consultant is an independent contractor with respect to WATERKEEPER, and not an employee of

WATERKEEPER. WATERKEEPER will not provide fringe benefits, including health insurance benefits, paid vacation, or any other employee benefit, for the benefit of Consultant.

7. INDEMNIFICATION. If either the Consultant or WATERKEEPER is negligent in carrying out its obligations hereunder, the negligent party agrees to defend, indemnify and hold harmless the other party from all claims, losses, expenses, fees including reasonable attorney fees, costs, and judgments that may be asserted against the other party which arise from or are related to the negligent party's performance or failure to perform pursuant to this Agreement.
8. ASSIGNMENT. Consultant's obligations under this Agreement may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of WATERKEEPER.
9. INSURANCE. Prior to commencement of any work and until completion and final acceptance of the work, the Consultant shall, at its sole expense, maintain the following insurance on its own behalf, and furnish to Buffalo Niagara WATERKEEPER certificates of insurance evidencing same and reflecting the effective date of such coverage as follows:

The term "Consultant" as used in these Insurance Requirements, shall mean and include Consultants and/or subconsultants of every tier.

- a. Worker's Compensation and Occupational Disease Insurance in accordance with the applicable law or laws; Employer's Liability Insurance. This includes sole proprietorships and officers of corporations who will be performing work on the Project(s).
- b. Commercial General Liability with a combined Bodily Injury and Property Damage limit of not less than ONE million (\$1,000,000) dollars per occurrence and TWO million (\$2,000,000) dollars in the aggregate. The aggregate must be applicable on a per project basis. Coverage must include the following perils:
 1. Broad Form Blanket Contractual Liability
 2. Completed Operations/Products Liability including Pollution Liability (where applicable).
 3. Broad Form Property Damage
 4. Personal and Advertising Injury Liability
 5. Independent Contractors
- c. Commercial Automobile Liability Insurance covering the use of all Owned, Non-Owned, and Hired Vehicles with a combined Bodily Injury and Property Damage Limit of at least ONE million (\$1,000,000) dollars.
- d. Commercial Umbrella Liability Insurance at a TWO million (\$2,000,000) dollars per occurrence and aggregate limit. The coverage should be on a follow-form basis and including naming Owner as Additional Insured on a Primary & Non-Contributory Basis.

- e. Professional Liability not less than ONE million (\$1,000,000) dollars per claim or combined single limit and to be maintained 3 years after substantial completion of the Project(s).
- f. Pollution Liability Insurance covering losses caused by pollution incidents that arise from the operations of the Consultant described under the scope of services of this contract. This is to include all work completed by the Consultant, or any subconsultant to the consultant or anyone else for whom the consultant is legally liable with limits not less than ONE million (\$1,000,000) dollars per occurrence and aggregate limit and shall be maintained for the duration of the work and for a period of 3 years after substantial completion of the project.
 - a. All pollutant exclusions shall be evidenced on the certificate of insurance, or a copy of the policy provided. These limits can be shared across a combined Consultants Pollution/Professional Liability Policy.
 - b. The Definition of “Covered Services” shall not exclude the services required in the scope of this contract.
- g. The amount of insurance contained in the aforementioned insurance coverages shall not be construed to be a limitation of the liability on the part of the Consultant or any of its subconsultants.
- h. With the exception of workers’ compensation and professional liability (but not contractors pollution liability), blanket additional insured endorsements should be included reflecting the inclusion of the interests of Buffalo Niagara WATERKEEPER, their officers partners, representatives, agents, employees and affiliated companies as an Additional Insured on a direct, primary & non-contributing basis including Completed Operations.
- i. Coverage is to be endorsed to reflect that a Waiver of Subrogation.
- j. Coverage is to be provided on an “occurrence” basis with carriers licensed and admitted to do business in the State of New York, with an A.M. Best financial rating of “A-” (or better) or otherwise acceptable to Buffalo Niagara WATERKEEPER.
- k. The Consultant shall file certificates of insurance prior to the commencement of work with WATERKEEPER for approval of adequacy of protection and the satisfactory character of the Insurer. A sample certificate of insurance is provided as Attachment B.
- l. The Consultant shall provide certificates evidencing the required coverages to Buffalo Niagara WATERKEEPER on an annual basis.

- m. Any type of insurance or any increase of limits of liability not described above which the Consultant requires for its own protection or on account of statute shall be its own responsibility and at its own expense.
 - n. The carrying of the insurance described shall in no way be interpreted as relieving the Consultant of any responsibility of liability under contract.
 - o. Any policies effected by the Consultant on its Owned and/or Rented Equipment and Materials shall contain a provision requiring the insurance carriers to waive their rights of subrogation to Buffalo Niagara WATERKEEPER and all other indemnitees named in the Agreement or Change Order.
 - p. Consultant shall not file any mechanic's, laborer's or materialman's lien, or suffer or permit any such lien to be filed against the Properties or any part thereof by reason of work, labor, services, or materials requested and/or supplies claimed to have been requested by or on behalf of WATERKEEPER; and if such lien shall at any time be so filed, within sixty (60) days after Landowner provides notice of the filing thereof to WATERKEEPER or Consultant, Consultant shall cause it to be canceled, bonded or discharged of record. To the extent Consultant fails to remove any mechanic's, laborer's or materialman's lien filed against the Properties within the time period set forth above, then Landowner may arrange bond or pay the amount of such claim upon which the lien is based and Consultant shall thereafter be liable to Landowner for the amount so paid, and any costs incurred by Landowner by reason of such lien, immediately upon demand, plus interest at the rate of nine percent (9%), except Landowner shall have no right to take the foregoing action if Consultant has commenced the removal of the lien within sixty (60) days of receiving notice of the same and has thereafter continuously and diligently been pursuing its removal of the same and continues to do so until conclusion. This provision shall survive the termination of this Agreement.
 - q. Should the Consultant engage a subconsultant, the same conditions will apply under this Agreement to each subconsultant.
10. MODIFICATION. This Agreement may be modified or amended only if the amendment is made in writing and is signed by both parties.
11. GENERAL OBLIGATIONS. In performance of the work authorized under this Agreement, Consultant agrees to comply with all applicable laws and regulations, particularly those associated with solicitation of charitable contributions pursuant to New York not-for-profit corporations' law.
12. BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns.

13. **GOVERNING LAW.** Regardless of the place of physical execution or performance this Agreement shall be construed according to the laws of the State of New York and shall be deemed to have been executed in the State of New York.
14. **NOTICES.** All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in person or deposited in the United States mail, postage prepaid, addressed as follows:

Company: Buffalo Niagara WATERKEEPER	Consultant
Contact: c/o XXXXXX	Contact: c/o XXXXXX
Address: 721 Main Street	Address:
Buffalo, New York 14203	
Email:	Email:
Phone Number: 716-852-7483	Phone Number:
Tax ID/EIN/SS #: 22-2993054	Tax ID/EIN/SS #:

Either party may change such address from time to time by providing written notice to the other in the manner set forth above.

15. **ACCESS TO RECORDS.** It is understood that at any time during the contract period WATERKEEPER and any grantor providing funds for these services may have access to any and all contract records regarding the scope of services.
16. **WARRANTY OF ORIGINALITY.** Consultant warrants that all material produced by Consultant and delivered to WATERKEEPER hereunder shall be original, except for such portion as is included with permission of the copyright owners thereof, that it shall contain no libelous or unlawful statements of materials and will not infringe upon any copyright, trademark, patent, statutory or other proprietary rights of others and that it will hold harmless WATERKEEPER from any costs, expenses, damages resulting from any breach of this warranty.
17. **SEVERABILITY.** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, that such provision shall be deemed to be written, construed, and enforced as so limited.
18. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the parties and there are not other promises or conditions in any other agreement whether oral or written. This Agreement supersedes any prior written or oral agreements between the parties.

By:

_____ Date _____

Jill Jedlicka, Executive Director
Buffalo Niagara WATERKEEPER

By:

_____ Date _____

Name, Title
Firm Name

APPENDIX A
Scope of Services

In accordance with the terms of this contract Agreement, WATERKEEPER retains the services of _____ to provide the following services in support of Buffalo Niagara WATERKEEPER.

SAMPLE



Professional Services for LaSalle Park Feasibility Study

City of Buffalo, Erie County, New York

ATTACHMENT C

(Sample Agreement, City of Buffalo)

For Placement on Contractor's Own Letterhead

Form of Access Indemnification and Insurance Agreement

DATE:

City of Buffalo
Department of Public Works, Parks and Streets
Steven J. Stepniak
Commissioner
65 Niagara Square, Rm. 502 City Hall
Buffalo, New York 14202

RE: Access to *(location info and address here)* in Buffalo, New York for Purpose of *(name of project here)* and The Undersigned's Indemnification of the City of Buffalo in Connection to Work to be Performed in and Around the Project Site.

Dear Mr. Stepniak:

(Contractor name and address here) (the "Contractor") has been engaged by the *(City of Buffalo or other organization named here)* to perform *(brief description of project here)*.

Prevailing Wage rules may apply, in accordance with New York State Labor Law Section 220, as work will be performed on public property.

In connection with the Project, the Contractor shall and does hereby indemnify and save harmless (and agrees to defend) the City of Buffalo (the "City"), its officers and employees from all claims, suits, actions, damages, losses and costs of every name and description to which the City may be subjected or put by reason of injury to the person or property of another, or the property of the City, resulting in any degree or manner whatsoever from or in connection with the Contractor's activities and or in connection with the Contractor's Project related activities and or resulting, from the negligence or carelessness, active or passive, of the Contractor, or the joint negligence, active or passive of the Contractor and others, or of the Contractor and his, its, or their employees, agents, or sub-contractors, in the performance of the Project and or in connection with the Project or in connection with the delivery and or installation and operation of equipment, materials and or supplies or otherwise. This indemnification is without limit.

Contractor shall and does hereby agree to defend, indemnify and hold harmless the City, its and their agents, officers, servants and/or employees for all claims or losses for personal injury involving employees of the Contractor or persons working for the Contractor or any sub-contractor or supplier or any third parties injured during the performance of the Project, events related to the Project, or under this contract.

This letter agreement and the effectuation of the indemnification hereunder is intended to be accompanied and facilitated by the Contractor's provision to the City of evidence of various types of insurance coverage as set forth below.

This letter of agreement shall be voided and of no effect unless the Contractor shall provide the City with proof of Workman's Compensation Insurance for the benefit of, and keep insured during the life of the Project work, such employees as are necessary to be insured in compliance with the provisions of the Workmen's Compensation Law of the State of New York on the New York form. The Contractor shall also provide evidence of disability insurance coverage on the New York Form.

In furtherance of the foregoing, the Contractor shall also provide evidence of policies of general liability insurance and automobile liability insurance and maintain said policies in force during the life of this Project. Said policies of insurance shall protect against liability arising from all matters in connection with the performance of activities in implementing the Project described in this letter or in any way relating to Contractor's activities in connection therewith, each said policy of insurance to be in the sum of at least \$1,000,000 per occurrence and \$1,000,000 per loss or damage by reason of such work performed in the implementation of the Project.

The Contractor shall furnish appropriate certificates of insurance at the time of execution of this letter agreement.

The City shall be named as certificate holder and as an additional insured under the general liability insurance coverage (with the Project being described in the description of operations box of the certificate of insurance), the automobile liability insurance coverage (any auto) as well as under any excess/umbrella liability coverage. The City of Buffalo shall be named as certificate holder on a certificate of insurance (on the New York form) evidencing worker's compensation insurance coverage and disability insurance (on the New York form).

The Contractor shall not look to the City of Buffalo for any payment whatsoever in connection with the Project. Notwithstanding anything contained herein to the contrary, the Contractor shall not access the Project site property for any purpose unless the City shall have issued a written notice to proceed. City reserves the right to terminate the access in the City's sole discretion at any time and the Contractor shall have no recourse to the City in such event.

(Signature of Authorized Personnel on Behalf of Contractor)

BY: _____
Name and Title

Date

Accepted and agreed to by the City of Buffalo through its Department of Public Works,
Parks and Streets.

BY: _____
Steven J. Stepniak
Commissioner

Date _____
