

AGREEMENT FOR PROFESSIONAL SERVICES

This agreement by and between the **TOWN OF CLAYTON**, a municipal corporation, with its principal place of business at 405 Riverside Drive, Clayton NY 13624, (hereinafter referred to as the "Town"), and **Blue Springs Energy LLC**, with offices at 1050 Gravel Road, Webster NY hereinafter referred to as the "Consultant").

In consideration of the mutual covenants, premises, conditions, and terms to be kept and performed, the parties hereto agree as follows:

1. SCOPE OF WORK. The work to be performed is set forth in the Consultant's proposal attached as **Exhibit 1**.

2. TERM. Unless terminated sooner in accordance with its terms, this agreement shall terminate on the completion of the Consultant's services hereunder and no later than April of 2013 as NYSERDA RFP2228 projects are funded by the American Recovery and Reinvestment Act (ARRA), and all project funds must be spent by May 24, 2013. This agreement may be terminated by either party at any time by giving written notice to the other party not less than thirty (30) calendar days before the effective date of termination. In the event of termination pursuant to this paragraph, the Town agrees to compensate the Consultant under the terms of this agreement for services performed and expenses incurred through the effective date of termination.

3. CONTRACT COMPENSATION. The Town shall pay the Consultant for the services specified in Scope of Work in accordance with the terms shown in Exhibit 1.

Consultant will submit invoices periodically for time and materials on Administration and Reporting tasks, and/or completion of any fixed-price deliverables detailed in the Scope of Services. Upon verification of the invoice by the Town, the Town shall pay the Consultant in their next Abstract ~~within (15) days of the verification date.~~ Without limiting its rights or remedies, the Consultant shall have the right to halt or terminate its services entirely if payment is not received within (60) days of the verification date.

Consultant payments will be paid from NYSERDA grant funds arising from an RFP2228 Agreement. No Consultant invoices will be paid until Town of Clayton has received NYSERDA progress payment funds.

4. CONFIDENTIALITY. To the extent that, in connection with this Agreement, the Consultant comes into possession of any proprietary or confidential information of the Town, the Consultant will not disclose such information to any third party without the Town's consent, except (a) as may be required by law, regulation, judicial or administrative process, or in accordance with applicable professional standards, or in connection with litigation pertaining hereto, or (b) to the extent such information shall have otherwise become publicly available

including, without limitation, any information filed with any governmental agency and available to the public.

5. COLLATERAL EFFORTS. If the Town or others require the Consultant, either during or subsequent to the work, to provide information, testimony or undertake other activities as part of legal or regulatory proceedings arising from the work conducted under this contract which is determined not to be the result of the Consultant's negligence, the Town will reimburse Consultant for its labor and expenses at its standard commercial rates then in effect.

6. LIMITATION ON DAMAGES. The Consultant agrees that the Town and its personnel shall not be liable to the Consultant for any claims, liabilities, or expenses relating to this agreement for an aggregate amount in excess of the fees paid by the Town to the Consultant pursuant to this agreement, except to the extent finally judicially determined to have resulted primarily from the bad faith or intentional misconduct of the Town. In no event shall the Town or its personnel be liable for consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense relating to this agreement. The provisions of this Paragraph shall apply to the fullest extent of the law, whether in contract, statute, tort (such as negligence), or otherwise. In circumstances where all or any portion of the provisions of this Paragraph are finally judicially determined to be unavailable, the Town's aggregate liability for any claims, liabilities, or expenses relating to this agreement shall not exceed an amount which is proportional to the relative fault that the Town conduct bears to all other conduct giving rise to such claims, liabilities, or expenses.

7. INDEPENDENT CONTRACTOR. It is understood and agreed that each of the parties hereto is an independent contractor and that neither party is, nor shall be considered to be, an agent, distributor, partner, fiduciary or representative of the other. Neither party shall act or represent itself, directly or by implication, in any such capacity in respect of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.

8. SURVIVAL AND INTERPRETATION. The agreement and undertakings of the Consultant contained in this agreement, (except for the "term" of the agreement) shall survive the expiration or termination of this engagement. For purposes of these terms, the "Town" shall mean Town of Clayton, and all of its officers, owners, directors, employees and agents, and in all cases any successor assignee.

9. COMMUNICATIONS. All notices and other communication under this Agreement shall be deemed effectively made or given if written and delivered to the parties at the addresses specified below.

A. With respect to the Town:	Town of Clayton 405 Riverside Drive Clayton, NY 13624
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B. With respect to Consultant: Blue Springs Energy
 1050 Gravel Road
 Webster NY 14580

10. GOVERNING LAW AND SEVERABILITY. These terms, including exhibits, and all matters relating to this agreement (whether in contract, statute, tort (such as negligence or otherwise), shall be governed by, and construed in accordance with, the laws of the State of New York (without giving effect to the choice of law principle thereof). If any provision of such terms is found by a court of competent jurisdiction to be unenforceable, such provision shall not be affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render if enforceable, preserving to the fullest extent permissible the intent of the parties set forth herein.

11. ENTIRE AGREEMENT. It is understood that the foregoing represents the entire agreement between the parties and any modification of the Contract agreement must be agreed upon in writing by the signatories or their authorized representatives.

IN WITNESS WHEREOF, the parties have made and entered into the Agreement as of the day and year last executed by either party as indicated below:

Agreed to and Accepted:

BLUE SPRINGS ENERGY, LLC

TOWN OF CLAYTON

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit 1 – NYSERDA RFP2228 Tasks and BSE Professional Services

Task 0 NYSERDA Contract, ARRA Pre-Contract Deliverables, and \$489,826 Re-Grant to NYSERDA for GJGNY revolving loan fund

0.1 The municipality shall:

- 0.1.1. Provide Staff and Legal resources to negotiate final NYSERDA Statement of Work and Progress Payment Schedule.
- 0.1.2. Provide Staff and BSE to prepare and deliver to NYSERDA all pre-Contract ARRA-related documentation such as NEPA questionnaire, Waste Management Plan, etc.
- 0.1.3. Provide Staff, Legal, and Legislative resources to draft and pass resolution to accept the \$544,251 grant.
- 0.1.4. Provide Staff, Legal, and Legislative resources to draft and pass resolution to re-grant NYSERDA \$489,826.
- 0.1.5. Provide Staff and Financial resources to Re-grant the \$489,826 to NYSERDA after Progress Payment 1 receipt of 92.5% of the grant.

Task 0 Results and Deliverable(s):

- 0.1.6. Final NYSERDA Statement of Work and Progress Payment Schedule
- 0.1.7. ARRA-related Pre-Agreement deliverables
- 0.1.8. Town of Clayton – NYSERDA Contract
- 0.1.9. Re-grant to NYSERDA after Progress Payment

BSE Task 0 Professional Services

- 1. BSE will support Town as required at \$119.80/hour. Total time and materials for the project will not exceed \$12,000 without written approval from Town of Clayton.

Task 1 Synchronization of GJGNY Regional Outreach

- 1.1 Within sixty days after receipt of the signed NYSERDA Agreement, the Municipality and BSE shall meet with organizations responsible for GJGNY marketing in the North Country NY Region including the CBO Contractor, Brand Cool Marketing, and CCEJC. The NYSERDA Project Manager will also be invited to attend to review existing marketing strategies and plans and to coordinate events, PR, and media buys that build upon the overall GJGNY marketing strategy and other on-the-ground outreach from the CBO and E\$CC. BSE shall take meeting notes and provide meeting notes to the NYSERDA Project Manager.
- 1.2 The Municipality and BSE shall detail the events, PR, and media buy plan for the region based on inputs from the other NYSERDA GJGNY marketing, education, and outreach contractors, and share the plan with the regional contractors.

Task 1 Results and Deliverables:

- 1.2.1. Meeting minutes and attendance for the regional NYSERDA GJGNY marketing, education, and outreach contractors kick off.
- 1.2.2. Detailed events, PR, and media buy plan for the region.

BSE Task 1 Professional Services

1. BSE will deliver Task 1.2.1 and 1.2.2 at \$119.80/hour. Total time and materials for the project will not exceed \$12,000 without written approval from Town of Clayton.

Task 2 Town of Clayton Outreach

- 2.1 The Municipality shall have BSE coordinate at least 2 GJGNY outreach events. The events will be focused on sectors and audiences complementary to the NYSERDA CBO Contractor and be done in collaboration with Brand Cool, E\$CC, and the CBO. NYSERDA GJGNY literature and messaging will be utilized at each event.

Task 2 Results and Deliverable:

- 2.1.1. At least 2 GJGNY outreach events within the Town of Clayton. Quarterly report will include Impacts such as: sector targeted, number of attendees, # of GJGNY referrals, etc.

BSE Task 2 Professional Services

1. BSE will project manage and coordinate 2 GJGNY outreach events at a fixed price of \$3,000/event for a total of \$6,000.

Task 3 Town of Clayton Marketing

- 3.1 The Municipality shall implement local PR and advertising media buys such as billboard(s), poster, radio, and/or print media in ~~Town of Clayton~~Region. The PR and media buys will be done based on the plan developed in Task 1, and in collaboration with Brand Cool, the NYSERDA GJGNY marketing contractor.

Task 3 Results and Deliverable:

- 3.1.1. Quarterly report on each PR activity and media purchase including GJGNY Impacts when available.

Task 4 Regional Outreach

- 4.1 The Municipality shall have BSE meet with Counties in the North Country region to coordinate and collaborate on a RenewNorthCountry.org program that supports and links to those who choose to link it to their local county, town, and village websites.
- 4.2 The Municipality shall have the Cornell Cooperative Extension (CCE) Energy Educators in each of the six counties (as described in the CY2012 Level of Support below) will perform the following duties for the period of January through December 2012 (not to exceed the total hours consistent with the FTE equivalents identified, by county, below):
 - 4.2.1. Seek out, attend, and staff an informational booth at appropriate no-cost venues in each of their counties to disseminate energy-related materials provided by the GJGNY Outreach contractor.

- 4.2.2. At each of the CCE offices, the CCE Energy Educators will make available, on public display, appropriate energy-related materials provided by the GJGNY Outreach contractor. In addition, the CCE Energy Educators will make appropriate energy-related materials provided by the GJGNY Outreach contractor available to other CCE Educators for dissemination to the consumers in their respective programs.
- 4.2.3. Utilize the existing CCE video-conferencing capabilities for synchronous, multi-site (up to three remote sites) energy-related informational meetings.
- 4.2.4. Serve as the initial source of energy-related information for visitors (physical, telephonic, and/or electronic) to their respective CCE offices.

CY2012 Level of Support:

- Clinton County	0.10	FTE – Educator
- Essex County	0.10	FTE – Educator
- Franklin County	0.10	FTE – Educator
- Jefferson County	0.05	FTE – Educator
- Lewis County	0.10	FTE – Educator
- St. Lawrence Co.	0.10	FTE – Educator

Task 4 Results and Deliverables:

- 4.2.5. RenewNorthCountry.org will launch with local press release and/or press events to highlight the GJGNY program. BSE plans to add Hamilton and Herkimer to a RenewNorthCountry.org portal for the expanded North Country region.
- 4.2.6. Quarterly report will include Impacts such as: sector targeted, number of attendees, # of video conferences, # of GJGNY referrals, etc.

BSE Task 4 Professional Services

1. BSE will do reporting at a blended rate of \$60/hour and \$119.80/hour. Total time and materials for the project will not exceed \$12,000 without written approval from Town of Clayton.
2. BSE will provide a RenewNorthCountry.org portal and program for the North Country region at a fixed price of \$3,000. More detail on this “Renew My Community” program:

Renew My Community Program

Blue Springs Energy, LLC shall provide a Renew My Community North Country Program for the duration of the RFP2228 project as follows:

- For North Country clean energy grant opportunities:
 - Regular email newsletter and alerts;
 - Educational webinars
 - Answers to questions and opportunity review
- A hosted and maintained website (www.RenewNorthCountry.org) to promote the adoption of energy conservation, efficiency and renewable measures within your communities, including:
 - Welcome from your Town Supervisor or other civic leader(s);
 - An updated collection of clean energy related programs your residents and businesses are eligible for from Federal, State, Utility, and 3rd- party sources;
 - Educational content related to the benefits of adopting energy conservation, efficiency and renewable energy measures;
 - Clean energy project results, such as energy and carbon savings, project descriptions, pictures, etc.;
 - Answers to questions submitted online by your community residents and businesses.
- Regular grant and incentive email newsletter and alerts.
- Community webinars on clean energy related incentive opportunities and tips to apply for incentives.
- Privacy and Security
 - BSE shall not sell or share end-user information without user's explicit permission.
 - BSE website shall protect user private information.
- Town of Clayton has final approval of website (www.RenewNorthCountry.org) content prior to launch of the website. BSE is responsible to maintain the website and to keep current its content on a regular basis.
- Promotional material with www.RenewNorthCountry.org information and benefits.
- Program Administrator and Business sponsors allowed on the web pages. BSE is solely responsible for sponsorship fulfillment. Town of Clayton can decline potential sponsors or request removal of sponsors that do not meet ethical standards.
- BSE will own copyrights of the Renew My Community Program material and website content.
- Town of Clayton will assume no liability for this project.

TOWN OF Clayton shall assist in the program launch and communication with the following:

- Announce www.RenewNorthCountry.org program with press release.
- Timely review and feedback on the www.RenewNorthCountry.org website and promotional material within 14 days of BSE draft submission.
- Assist with community energy projects webpage content such as paragraph on the project, energy and carbon savings, project pictures, etc.
- Place www.RenewNorthCountry.org promotional material at your public facilities such as Town Office Bldg., etc.
- Communicate www.RenewNorthCountry.org program and the benefits to the community in applicable email and hard copy newsletters.
- Agrees to give BSE the right to use Town of Clayton's name in connection with the preparation and marketing of the program.
- Agrees to display the www.RenewNorthCountry.org link prominently on your website's homepage for the term of this agreement.

Task 5 Project Management:

- 5.1 **Kick-off Meeting:** Within thirty days after receipt of the signed NYSERDA Agreement, the Municipality and BSE shall meet or have a call with NYSERDA's Project Manager to establish a complete understanding of this Agreement, to review all necessary information relating to the project activities, and to discuss the format and schedule for project reporting. The Kick-off meeting shall be conducted at a location mutually agreed upon by NYSERDA and the Municipality. BSE shall take meeting notes and provide a draft of meeting notes to the NYSERDA Project Manager.
- 5.2 **Progress Reports:** With each invoice submitted to NYSERDA's Project Manager, the Municipality or its Subcontractor shall provide a progress report describing the work performed and milestones met since the last invoice. These progress reports shall be submitted every 3 months by the 5th day after the calendar quarter ends. Progress reports shall be submitted either electronically (via e-mail) or in paper format. Such reports shall at a minimum describe include:
 - Title of project, agreement number, period of this report
 - Difficulties encountered and planned solutions

- Summary of Impacts data collected and/or estimated for number of GJGNY referrals by sector (Residential, Small business, Not-for-Profits, and Multi-family) and by source (Renew My Community websites and Ask the Expert, Outreach Events, PR, Advertising, etc.)
 - Percentage complete summaries of budget, schedule and milestones
 - ARRA-required reporting information
- 5.3 **Final Report:** The Municipality shall prepare a Final Report that describes the work performed and the results obtained during the project.

Task 0 Deliverable(s):

- 5.3.1. Timely progress reports by the 5th day after the end of the quarter
- 5.3.2. Final Report

BSE Task 5 Professional Services

1. BSE will lead meetings and do reporting at a blended rate of \$60/hour and \$119.80/hour. Total time and materials for the project will not exceed \$12,000 without written approval from Town of Clayton.