



**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**Department of Administration**  
DIVISION OF LEGAL SERVICES  
One Capitol Hill, 4<sup>th</sup> Floor  
Providence, RI 02908-5890

Tel: (401) 222-8880  
Fax: (401) 222-8244

October 30, 2014

**VIA FIRST CLASS MAIL AND ELECTRONIC MAIL:**

Luly E. Massaro  
Commission Clerk  
Rhode Island Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, Rhode Island 02888

RE: Docket No. 4288 –RI Office of Energy Resources’ Request for Funding to Hire a Ceiling Price Consultant for the for the 2015 Renewable Energy Growth Program Year

Dear Ms. Massaro:

On behalf of the Office of Energy Resources (“OER”) and in response to the Order issued by the Public Utilities Commission on October 23, 2014, regarding the above mentioned docket, please find ten (10) copies of the following documents:

1. The evaluation memorandum providing the evaluation scores of the bidders;
2. The Purchase Agreement issued to Sustainable Energy Advantage LLC (“SEA”) – Providing the identity and the amount of the winning proposal (\$50,700); and
3. The Contract with SEA that was put in place for the first time this year regarding this engagement – In previous filings for this Docket, the OER indicated that the only agreement that would be put in place was the Purchase Agreement, which incorporates the proposal submitted by the winning vendor. However, for the first time this year, the Division of Purchases required the OER to execute a separate agreement with SEA. This Agreement is attached as a courtesy.

If you have any questions regarding this matter, or need additional information, please feel free to contact me.

Thank you for your assistance.

Sincerely,

Daniel W. Majcher, Esq.

DWM/njr

Enclosure

c. Docket 4288 Service List

To: George Welly

RI Department of Administration/Office of Purchases

From: Chris Kearns

RI Department of Administration/Office of Energy Resources

Date: August 27, 2014

Re: BID# 7548892, Renewable Energy 2015 Ceiling Price Development

Cc: Kenneth Payne, Hannah Morini (Technical Review Committee members)

This memo presents a final summary report of the technical evaluation for the Requests for Proposals, BID#7548892, Renewable Energy 2015 Ceiling Price Development. The Technical Review Committee conducted an evaluation and scoring of the submitted proposals from three vendors, and determined which proposals successfully scored above the minimum threshold score of 60 points. The following table lists the bids submitted for this solicitation.

Vendor Name	City
Cadmus Group	Waltham, MA
Sustainable Energy Advantage	Framingham, MA
Dunsky Energy Consulting	Montreal, Canada

The bid solicitation seeks vendors to perform the 2015 ceiling price services for the eligible renewable energy technologies and system sizes under the Renewable Energy Growth law, and participate in the docket proceedings before the RI Public Utility Commission. The Technical Review Committee (TRC) is an evaluation team that was selected by the Distributed Generation Board to review the bids for their technical merit. Its membership is listed in the following table:

Name	Title	Agency
Ken Payne	Chairman, Distributed Generation Board	Distributed Generation Board
Hannah Morini	Renewable Energy Program Manager	Commerce RI
Chris Kearns	Chief, Program Development	Office of Energy Resources

The solicitation disclosed scoring categories to be addressed in the vendor's proposal, with the following weights as specified below:

Capability, Capacity, and Qualifications of the Offeror	Available Points
The ability to respond to and meet the guidelines and conditions set forth, and the ability to meet project deadlines and timetables.	25
Demonstrated capacity, facilities and organizational structure to perform the type of consulting services sought.	
Staff Qualifications	



# Notice of Contract Purchase Agreement

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
ONE CAPITOL HILL  
PROVIDENCE RI 02908

ROBERT C GRACE  
DBA SUSTAINABLE ENERGY ADVANTAGE LLC  
10 SPEEN ST 3RD FL  
FRAMINGHAM, MA 01701  
United States

Renewable Energy 2015 Ceiling Pricing - DOA	
Award Number 3397123	Effective Period: 01-OCT-14 - 30-JUN-15

S H I P T O	DOA CENTRAL BUSINESS OFFICE ADMINISTRATIVE SERVICES ONE CAPITOL HILL, 4TH FLOOR PROVIDENCE, RI 02908 United States	Date: 03-OCT-14 Buyer: G Welly Shipping: Paid Terms: NET 30 Vendor#: 39006	I N V O I C E	DOA CONTROLLER ONE CAPITOL HILL, 4TH FLOOR SMITH ST PROVIDENCE, RI 02908 United States

Department	Type of Requisition	Bid Number	Requisition Number
		N/A	

RENEWABLE ENERGY GROWTH PROGRAM - 2015

BLANKET REQUIREMENTS:  
10/1/14 - 6/30/15

REQUISITION #1375399

IN ACCORDANCE WITH PUBLIC BID 7548892 DATED 7/25/2015

NOT TO EXCEED \$50,700.00

AGENCY CONTACT:  
CHRIS KEARNS  
401-222-6388

SUPPLIER CONTACT:  
ROBERT GRACE  
508-665-5855

# AGENCY

STATE PURCHASING AGENT  Nancy R. McIntyre
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This Notice of Award/Purchase Order is issued in accordance with the specific requirements described herein and the State's Purchasing Regulations and General Conditions of Purchase, copies of which are available at [www.purchasing.ri.gov](http://www.purchasing.ri.gov). Delivery of goods or services as described herein shall be deemed acceptance of these requirements.

**Contract Terms and Conditions**

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**Terms and Conditions****PURCHASE ORDER STANDARD TERMS AND CONDITIONS****TERMS AND CONDITIONS FOR THIS PURCHASE ORDER****INSURANCE REQUIREMENTS (ADDITIONAL)**

ANNUAL RENEWAL INSURANCE CERTIFICATES FOR WORKERS' COMPENSATION, PUBLIC LIABILITY, PROPERTY DAMAGE INSURANCE, AUTO INSURANCE, PROFESSIONAL LIABILITY INSURANCE (AKA ERRORS & OMISSIONS), BUILDER'S RISK INSURANCE, SCHOOL BUSING AUTO LIABILITY, ENVIRONMENTAL IMPAIRMENT (AKA POLLUTION CONTROL), VESSEL OPERATION (MARINE OR AIRCRAFT) PROTECTION & INDEMNITY, ETC., MUST BE SUBMITTED TO THE SPECIFIC AGENCY IDENTIFIED IN THE "BILL TO" SECTION OF THE PURCHASE ORDER. CERTIFICATES ARE ANNUALLY DUE PRIOR TO THE BEGINNING OF ANY CONTRACT PERIOD BEYOND THE INITIAL TWELVE-MONTH PERIOD OF A CONTRACT. FAILURE TO PROVIDE ANNUAL INSURANCE CERTIFICATION MAY BE GROUNDS FOR CANCELLATION.

**MULTI YEAR AWARD**

THIS IS A MULTI-YEAR BID/CONTRACT. PER RHODE ISLAND STATE LAW 37-2-33, CONTRACT OBLIGATIONS BEYOND THE CURRENT FISCAL YEAR ARE SUBJECT TO AVAILABILITY OF FUNDS. CONTINUATION OF THE CONTRACT BEYOND THE INITIAL FISCAL YEAR WILL BE AT THE DISCRETION OF THE STATE. TERMINATION MAY BE EFFECTED BY THE STATE BASED UPON DETERMINING FACTORS SUCH AS UNSATISFACTORY PERFORMANCE OR THE DETERMINATION BY THE STATE TO DISCONTINUE THE GOODS/SERVICES, OR TO REVISE THE SCOPE AND NEED FOR THE TYPE OF GOODS/SERVICES; ALSO MANAGEMENT OWNER DETERMINATIONS THAT MAY PRECLUDE THE NEED FOR GOODS/SERVICES.

**AUTHORIZATION AND RELEASE**

In no event shall the Vendor deliver goods or provide service until such time as a duly authorized release document is certified by the ordering Agency. A Direct Purchase Order (DPO) shall be created by the agency listing the items ordered, using the pricing and format set forth in the Master Blanket. All pricing shall be as described in the Master Blanket and is considered to be fixed and firm for the term of the Agreement, unless specifically noted to the contrary herein. All prices include prepaid freight. Freight, taxes, surcharges, or other additional charges will not be honored unless reflected in Master Blanket.

**PARTIAL PAYMENTS**

PARTIAL OR PROGRESS PAYMENTS MAY BE MADE. PAYMENT WILL BE AUTHORIZED UPON RECEIPT AND ACCEPTANCE BY THE AGENCY OF THE PORTION OF THE CONTRACT OR PURCHASE ORDER COMPLETED BY THE VENDOR. PAYMENT UPON THE RENDERING OF A PROPERLY SUBMITTED INVOICE.

**BLANKET PAYMENT**

DELIVERY OF GOODS OR SERVICES AS REQUESTED BY AGENCY. PAYMENTS WILL BE AUTHORIZED UPON SUBMISSION OF PROPERLY RENDERED INVOICES NO MORE THAN MONTHLY TO THE RECEIVING AGENCY. ANY UNUSED BALANCE AT END OF BLANKET PERIOD IS AUTOMATICALLY CANCELLED.

telephone, but must provide the Vendor with a DPO Order Number reference for billing purposes. Vendors are encouraged to require written orders to assure payments are processed accurately and promptly.

**DELIVERY** - If this is an MPA, Vendor will obtain "ship to" information from each participating agency. This information will be contained in the DPO. APA delivery information will be contained in the Notice of Award.

**PRICING** - All pricing shall be as described herein, and is considered to be fixed and firm for the term of the Agreement, unless specifically noted to the contrary herein. All prices include prepaid freight. Freight, taxes, surcharges, or other additional charges will not be honored unless reflected herein.

**INVOICING** - All invoices shall reference the DPO Order Number(s), Price Agreement number, the Contract Issue number, the item(s) covered, and the unit pricing in the same format as described herein. If this is an MPA, Vendor will obtain "bill to" information from each participating agency. This information will be contained in the DPO. APA billing information will be contained in the Notice of Award.

**PAYMENT** - Invoices for items not received, not priced according to contract or for work not yet performed will not be honored. No payment will be processed to any vendor for whom there is no IRS W-9 on file with the State Controller.



# Purchase Order

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
ONE CAPITOL HILL  
PROVIDENCE RI 02908

ROBERT C GRACE  
DBA SUSTAINABLE ENERGY ADVANTAGE LLC  
10 SPEEN ST 3RD FL  
FRAMINGHAM, MA 01701  
UNITED STATES

Purchase Order Number  
**3399480**  
Reference Contract Number  
3397123

S H I P T O	DOA CENTRAL BUSINESS OFFICE ADMINISTRATIVE SERVICES ONE CAPITOL HILL, 4TH FLOOR PROVIDENCE, RI 02908 UNITED STATES	PO Date: 23-OCT-14 Buyer: * AUTOCREATE Shipping: PAID Terms: NET 30 Vendor #: 39006	I N V O I C E	DOA CONTROLLER ONE CAPITOL HILL, 4TH FLOOR SMITH ST PROVIDENCE, RI 02908 UNITED STATES
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RENEWABLE ENERGY GROWTH PROGRAM 2015

Department		Type of Requisition	Requisition Number	Bid Number		
DOA CENTRAL BUSINESS OFFICE		*OTHER	1391734			
Line	Code	Description	Quantity	Unit	Unit Price	Total
1	946.49	RENEWABLE ENERGY GROWTH PROGRAM 2015	50700	Each	1	50,700.00
Total:						50,700.00

STATE PURCHASING AGENT
Nancy R. McIntyre



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration  
DIVISION OF PURCHASES  
One Capitol Hill  
Providence, RI 02908-5855

Tel: (401) 574-8100  
Fax: (401) 574-8387  
Website: [www.purchasing.ri.gov](http://www.purchasing.ri.gov)

**PROFESSIONAL SERVICES AGREEMENT**

This **PROFESSIONAL SERVICES AGREEMENT** is made and entered into as of the date set forth below by and between the **STATE OF RHODE ISLAND, ACTING BY AND THROUGH THE DEPARTMENT OF ADMINSTRATON DIVISION OF PURCHASES**, on behalf of the User Agency, and the Consultant that executes this Professional Services Agreement below.

**Recitals**

The State requires the professional services described on the Schedule in connection with the Project for the User Agency identified on the Schedule and as described in detail in the Request for Proposal. Consultant has the desire, expertise, experience, and capacity necessary to perform such professional services. The State and Consultant wish to set forth in this Agreement the terms and conditions pursuant to which Consultant will perform such professional services for the State.

The State and Consultant, therefore, mutually agree as follows:

**Agreements**

**1. Definitions.**

**1.1 Specific Definitions.** For purposes of this Agreement, the capitalized terms set forth in this Agreement shall have the meanings ascribed to them in this Section 1.1.

**“Agreement”** means this Agreement which will govern the terms and conditions pursuant to which Consultant will perform the Services for the State, each and every exhibit and schedule attached hereto, including the Schedule, and by this reference made an integral part of this Agreement, all as amended, renewed, and extended from time to time.

**“Consultant”** means the Consultant that executes and enters into this Agreement to perform the Services for the State, and by such execution, agrees to be bound by all of the terms and conditions herein contained, and includes Consultant’s subsidiaries, affiliates, successors, and assigns.



**"Person"** means any partnership (including limited partnerships), corporations, limited liability companies, governmental authorities, trusts and all other legal entities, as well as natural persons.

**"Services"** means any and all professional services listed on the Schedule, and any and all other obligations, duties, requirements, and responsibilities required for the successful performance of this Agreement by Consultant, including the furnishing of all supervision, labor, materials, and other supplies, in accordance with the terms and conditions set forth herein.

**"Subcontractor"** means a Person that has a direct or indirect contractual or vendor arrangement or relationship with Consultant to perform any of the Services.

**"Term"** means the term of this Agreement pursuant to the provisions of Section 21.1.

**"The State"** means the State of Rhode Island, acting by and through its Department of Administration Division of Purchases, and each executive, legislative, judicial, regulatory, or administrative body of the state, or any political subdivision thereof, including without limitation, any department, division, agency, commission, board, office, bureau, committee, authority, educational institution, school, water, or fire district, or other agency of Rhode Island state or local government that exercises governmental functions in Rhode Island, any other governmental authority, and any quasi-public corporation and/or body corporate and politic, and their elected or appointed officials, members, employees, and agents.

**"User Agency"** means the governmental authority of the State that will be the recipient and beneficiary of the Services.

**1.2 Context.** Words and abbreviations that have well-known industry meanings, and not otherwise defined herein, are used in this Agreement in accordance with such recognized meanings. Unless the context otherwise requires:

- (i) the words "hereby," "hereof," "hereto," "herein," "hereunder," and any similar words refer to this Agreement; and
- (ii) the word "day" or "days" refer to calendar day(s).

**1.3 Terminology.** The singular shall include the plurals and vice versa. Titles of sections are for convenience of reference only, and neither limit nor amplify the provisions of this Agreement. The use herein of the word "including," when following any general statement, term, or matter is not limited to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation," or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term, or matter.

2. **Engagement.** Subject to the terms and conditions of this Agreement, the State engages Consultant, and Consultant accepts the engagement, to perform the Services during the Term. Consultant shall not commence performance of the Services until it receives an authorization from the State and the User Agency to proceed.

3. **Performance Standards.** Consultant will perform its services with the highest degree of care, skill, and diligence, and in accordance with the applicable professional standards currently recognized by such profession, and will be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs, drawings, plans, information, specifications, and other items and services furnished under this Agreement. Consultant will comply with all applicable federal, state, and local laws, ordinances, codes, and regulations in performing the Services. If Consultant fails to meet applicable professional standards, Consultant will, without additional compensation, promptly correct or revise any errors or deficiencies in its reports, drawings, specifications, designs, and other items or services.

#### 4. **Employees and Agents.**

4.1 **Personnel.** Any of Consultant's personnel or those of its Subcontractors specifically identified on the Schedule are considered essential to performance and may not be removed or replaced without the prior approval of the State. All personnel employed or engaged by Consultant shall possess the necessary skills for performance under this Agreement, and the State may require demonstration of such skills according to certification or qualification tests administered or approved by the State. Use of outside personnel will be with the prior consent of and under conditions acceptable to the State. Consultant will at all times enforce proper discipline and good order among the personnel under its control or supervision. The State will have the right to require any Person observed to be failing, refusing, or unable to carry out Consultant's obligations, or any Person appearing in the sole judgment of the State to be intemperate, incompetent, disruptive, or otherwise undesirable, in the discretion of the State, to be removed from performance under this Agreement immediately upon the request of the State and replaced by Consultant without charge to the State.

4.2 **Subcontractors.** Consultant will not subcontract or delegate any portion of the Services without the prior consent of the State. All portions of the Services that Consultant does not perform with its own personnel will be performed under agreements with Subcontractors that meet the requirements of this Agreement. The names, addresses, and a description of the services of all Subcontractors are listed on the Schedule. The State will also have the right to require that Consultant engage particular Subcontractors to perform any of the Services. By an appropriate written agreement, Consultant will require each Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Consultant by the terms of this Agreement, and to assume toward Consultant all the obligations and responsibilities which Consultant, by this Agreement, assumes toward the State. Such agreement shall preserve and protect the rights of the State under this Agreement with respect to the Services to be performed by the Subcontractor.

## **5. Representatives.**

**5.1 Consultant's Representative(s).** The name and title of Consultant's authorized representative(s) and principal contact(s) with the State are set forth on the Schedule, together with personnel descriptions and an organization chart showing reporting functions within Consultant and with and to the State.

**5.2 The State's Representative.** The name and title of the State's authorized representative(s) and principal contact(s) with Consultant are set forth on the Schedule.

**6. Compensation.** As full and complete compensation for the performance by Consultant of the Services, the State will pay Consultant the fees set forth on the Schedule.

**7. Expenses.** The State will reimburse Consultant for any out-of-pocket expenses reasonably incurred in connection with its performance of the Services upon submission of proper documentation, and in accordance with the terms of the State's consultant reimbursement policy then in effect.

## **8. Payment.**

**8.1 Invoices.** Consultant will have the sole responsibility for the accuracy and timely submission of proper invoices in accordance with the instructions set forth on the Schedule. At a minimum, Consultant's invoices will identify the time period and Services being billed, and shall be itemized to show separate amounts for labor, materials, expenses, retention, and any tax or other governmental charge included. Invoices for partial billing shall include: (i) a summary of charges to date; and (ii) an estimate of remaining charges. Direct charges will be supported with proper vouchers. Invoices must include Consultant's federal taxpayer identification number<sup>1</sup>, and reference this Agreement and, if applicable, the State's and the User Agency's purchase order and line item numbers.

**8.2 Payment.** Unless otherwise provided, payments pursuant to this Agreement (subject to retention or setoff, if applicable) will be made within thirty (30) days after receipt of acceptable monthly invoice(s) with appropriate documentation and otherwise in accordance with the provisions of "Prompt Payment by Department of Administration," R.I. Gen. Laws §§ 42-11.1-1 et seq. The State may withhold or (on account of subsequently discovered evidence) nullify the whole or part of any invoice to such extent as may be necessary to protect it from loss on account of:

- (i) defective Services or other breach under this Agreement;
- (ii) third-party claims filed or reasonable evidence indicating probable filing of such claims;

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<sup>1</sup> For single member limited liability company's using the sole member's social security number as the tax ID, the invoice may reference the social security number already on file with the State so as not to unreasonably disclose the proprietor's social security number.

(iii) failure of Consultant to make payments due to Subcontractors or employees;

(iv) reasonable indication that the Services will not be completed within the time frames specified in this Agreement;

(v) invoicing which is incorrect;

(vi) overcharges in violation of the terms and conditions of this Agreement;

(vii) any unpaid and delinquent taxes or other debt owed the State by Consultant; or

(viii) any claim against Consultant by the State arising out of this Agreement or any other agreement between Consultant and the State.

**8.3 Retainage.** The State will deduct from each invoice of Consultant the retainage percentage listed on the Schedule to be held as retainage. The State will pay the retainage upon completion of the Services.

**8.3 Payment for Subcontractors.** Consultant will bill, without markup, for the Services of its Subcontractors as a direct expense.

**8.4 Conditions.** The State will not, under any circumstances, be liable for payment of invoices submitted for payment or received by the State more than ninety (90) days from the completion date of the Services. By acceptance of payment under this Agreement, Consultant releases and indemnifies the State from any and all liabilities. Neither payment nor acceptance by the State shall relieve Consultant or its agents, employees, or Subcontractors from liability for failure to meet all requirements of this Agreement. All amounts payable under this Agreement for Services shall be deemed compensation for services rendered, even if directly or indirectly passed on to Consultant's personnel through expense reimbursement.

**9. Audit.** The State will have the right, during performance of this Agreement and for a period of three (3) years after final payment, at such reasonable times and places as the State may designate, to examine or cause to have examined Consultant's records, including computerized data files and programs using computer equipment under Consultant's supervision or control, to verify all direct charges, expenses, and disbursements invoiced to the State. The State's right of examination shall extend to any subcontract, and Consultant will include such provision in each such subcontract. The State reserves the right to recover from Consultant any amounts which it has overpaid to Consultant under this Agreement.

## **10. Progress of the Services.**

**10.1 Progress.** Consultant will furnish schedules and progress reports requested by the State to provide verification and reasonable assurance of full and timely performance, as set forth in this Agreement.

**10.2 Inspection.** The State will have the right to inspect and test all Services performed under this Agreement, to the extent practicable at all times and places during the Term and prior to acceptance. The State will perform inspections and tests in a manner that will not unduly delay the performance of the Services. If any of the Services do not conform with the requirements of this Agreement, the State may require Consultant to perform the Services again in conformity with such requirements, without additional charge. When defects in services cannot be corrected by further performance, the State, at its option, may (i) require Consultant to take necessary action to ensure that future performance conforms to the requirements of this Agreement; and (ii) reduce the professional fees to reflect the reduced value of services performed. If Consultant fails to promptly perform the Services again or to take necessary action to ensure future performance in conformity with requirements of this Agreement, the State, at its option, may: (i) perform the Services and charge to Consultant any cost incurred by the State that is directly related to the performance of such Services; or (ii) terminate this Agreement. Neither inspection and testing of the Services, nor acceptance of the Services, nor payment by or on behalf of the State shall relieve Consultant from any responsibility regarding defects or other failures to meet the requirements of this Agreement. Consultant shall provide and maintain an inspection system acceptable to the State covering the Services hereunder. Records of all inspection and testing shall be kept complete and available to the State during the performance of this Agreement or required by law.

**11. Changes in the Scope of Services.** The State may, at any time and from time to time, make changes in the scope of the Services through additions, deletions, or other revisions, including the right to make changes in: (i) the description of the Services; (ii) the time of performance (such as hours of the day, days of the week); (iii) the schedule for completion of the Services; or (iv) the place of performance of the Services. If the change in the scope of the Services increases or decreases the cost of or the time for performance, an equitable adjustment will be made, and this Agreement modified accordingly. Upon receipt of authorization, Consultant, without delay, will proceed with execution of such authorization according to its terms. Notice of any claim by Consultant for extension of time for performance or adjustment of the price which arises for any reason, including any change requested by the State under this Section 11, must be made in writing no later than ten (10) days after the occurrence which gives rise to such claim; otherwise, such claim is barred. Any claim for extension or adjustment shall include, as applicable, a detailed description of the claim, including the change in the scope of Services, the extension of time sought and specific justification for the amount of time sought, and a detailed statement of the increased costs to be incurred in carrying out the change

**12. Insurance.**

**12.1 Maintenance of Insurance.** At all times during the Term, Consultant shall purchase and maintain the following types and amounts of insurance:

<u>Type of Insurance</u>	<u>Amount of Coverage</u>
Comprehensive General Liability	\$1 Million each occurrence (inclusive of both bodily injury and property damage)

\$1 Million products and completed operations  
aggregate

\$1 Million general aggregate

*Comprehensive General Liability coverage shall include:*

Independent contractors  
Contractual (including construction "hold harmless" and other types of  
contracts or agreements in effect for insured operations)  
Completed operations  
Personal injury (with employee exclusion deleted)

Automobile Liability

Combined Single Limit                      \$1 Million each occurrence

Bodily injury, property damage, including non-owned and/or hired vehicles  
and equipment

Workers Compensation

Coverage B                                      \$100,000

Professional liability insurance              \$ \_\_\_\_\_ each occurrence

**12.2 Certificate of Insurance.** Consultant must submit a copy of an endorsement and a certificate of insurance that references this Agreement and names the State of Rhode Island as "certificate holder" and as "additional insured" on an annual basis during the Term and from time to time upon request. The certificate of insurance must state that 30 days' advance notice of cancellation, nonrenewal, or material change in coverage (referencing this Agreement) will be sent to: Rhode Island Department of Administration, Division of Purchases, One Capitol Hill, Providence, Rhode Island 02908-5855, fax # 401-574-8387.

**12.3 Waiver of Subrogation.** All insurance required by this solicitation, whether through a policy or an endorsement, shall include: (i) a waiver of subrogation, waiving any right the insurance company may have to recover against the State of Rhode Island; and (ii) a provision that the bidder's insurance coverage shall be primary in relation to any insurance, self-insurance, or self-retention maintained by the State of Rhode Island, and any insurance, self-insurance, or self-retention maintained by the State of Rhode island shall be in excess of the bidder's insurance.

**12.4 Conditions.** All insurance specified herein shall be minimum requirements, and Consultant is responsible for providing any additional insurance deemed necessary to protect Consultant's interests from other hazards or claims in

excess of the minimum coverage. The liability of Consultant to the State is not limited to Consultant's insurance coverage.

**13. Representations and Warranties.** As an inducement to the State to enter into this Agreement, Consultant makes the representations and warranties set forth in this Section 13.

**13.1 Absence of Restrictions.** Consultant is under no contractual or other obligation or restriction which is inconsistent with Consultant's execution of this Agreement or the performance of the Services. During the Term, Consultant will not enter into any agreement, either written or oral, in conflict with Consultant's obligations under this Agreement.

**13.2 Design, Workmanship, and Performance.** Notwithstanding any inspection and acceptance by the State, or any provision concerning the conclusiveness thereof, all services performed under this Agreement will, at the time of acceptance, be free from defects in design, workmanship, and performance, and conform to the requirements hereof. If the Services do not conform in all respects with this Section 13.2, Consultant will promptly correct such nonconformity in accordance with the provisions of Section 10.2, hereof, without additional cost to the State.

**13.3 Infringement.** The Services will not infringe any patent, trademark, copyright, or other proprietary interest. Without limiting any other remedies the State may have under this Agreement or applicable state or federal law, Consultant will defend, at the State's option, indemnify and hold harmless the State from all claims, suits or proceedings made or brought against the State to any extent based on any allegation that the Services or use of the Services constitutes an infringement of any patent, trademark, copyright, or other proprietary interest, and Consultant will pay all damages, costs, and expenses, including attorneys' fees, in connection with any such claims, suits, or proceedings. If the use of such Services, or any part thereof, shall in any suit or proceeding be held to constitute an infringement and the use thereof is enjoined, Consultant will, at its sole expense, either procure for the State the right to continue to use such Services, or part thereof, replace it with noninfringing Services, or modify it so that it becomes noninfringing. Any substituted noninfringing Services shall be, in quality and performance, equal to or better than the Services replaced.

**13.4 Personnel Warranty.** Consultant will provide highly qualified supervision and competent personnel to perform the Services in strict conformance with the terms and conditions of this Agreement.

**13.5 Rights in Data.** All of the plans, specifications, reports, documents, and other materials (whether in written form or on magnetic media) produced in connection with this Agreement shall belong exclusively to the State and shall be deemed to be works made for hire, unless such materials are already in the public domain or were prepared by the Consultant under prior engagements whether public or private. To the extent that any of these materials may not, by operation of law, be works made for hire, Consultant hereby assigns to the State the ownership of copyright in these materials, and the State shall have the right to obtain and hold in its own name or transfer to others, copyrights, and similar protection which may be available in such materials,

unless such materials are already in the public domain or were prepared by the Consultant under prior engagements whether public or private.

**13.6 Survival.** The provisions of this Section 13 will survive the expiration or earlier termination of this Agreement.

**14. The State's Responsibility.** The State will: (i) provide in a timely manner all available information reasonably pertinent to the performance of the Services, including previous reports, drawings, specifications, or other data as Consultant may reasonably request to perform the Services; (ii) give prompt notice to Consultant whenever the State becomes aware of any information that may affect the scope or timing of the Services; and (iii) secure, on behalf of Consultant, access to all public and private property as necessary for the performance of the Services.

**15. Confidentiality.** Since the performance of the Services may require knowledge and information of a proprietary nature to the State, Consultant shall receive such knowledge and information in confidence and shall not, except as approved by the State, exploit for its own benefit or the benefit of any Person, publish, or disclose, or authorize any Person to publish, disclose, or make use of such information or knowledge unless and until such information or knowledge shall have ceased to be proprietary as evidenced by general public knowledge. This prohibition as to publication and disclosure shall not restrict Consultant in the exercise of its technical skill providing that the exercise of such skill does not involve the disclosure to others of information considered sensitive or proprietary to the State. Consultant shall, upon demand, promptly surrender any such information to Company.

**16. Compliance with Law.**

**16.1 General Requirements.** The Services, and the performance of the Services by Consultant, will comply with the terms and conditions of the Request for Proposal and all applicable federal, state, and local law, all of which are incorporated into this Agreement by this reference.. This obligation extends to Consultant's agents and Subcontractors. Consultant's Subcontractors will be licensed in accordance with all applicable law, and Consultant will be responsible to: (i) procure all certificates of inspection; and (ii) to apply all charges and fees and to give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

**16.2 The State's Rules and Regulations.** At all times during the Term, Consultant will comply with all rules and regulations promulgated by the State from time to time applicable to Persons which contract with the State.

**16.3 Schedule Requirements.** In addition to the provisions of Sections 16.1 and 16.2, the provisions set forth on the Schedule are hereby incorporated in this Agreement as if fully set forth herein. Consultant and the Services will comply with each and every provision listed under "Additional Provisions" on the Schedule. This obligation extends to Consultant's agents and Subcontractors.

**18. Adequate Assurance of Future Performance.** The State may require Consultant to provide the State with adequate assurance that Consultant will perform its obligations in a timely fashion in accordance with this Agreement. In the event that the State requests that Consultant provide adequate assurance, or a statement by Consultant



that Consultant cannot or will not perform in a timely fashion in accordance with this Agreement, or any act of omission of Consultant which makes it, in the State's judgment, improbable at the time that Consultant will perform in accordance with this Agreement shall permit the State to terminate the Agreement under Section 21.

**19. Timeliness.** Time is of the essence of this Agreement. Consultant will perform the Services in such manner as to ensure their completion in accordance with the timetable set forth on the Schedule.

**20. Force Majeure.** Neither the State nor Consultant, however, will be liable for failure or delay in performance due to any cause not reasonably foreseen by, beyond the control of, and without the fault or negligence of either party; provided that the State or Consultant shall have used its best efforts to avoid such failure or delay in performance, minimized the impact thereof, and rendered prompt written notice thereof when first discovered, fully describing its probable effect and duration. In such event of excusable delay or nonperformance, the State will have the right at its option and without liability to Consultant to cancel by notice to Consultant any or all portions of Consultant's performance so affected and to take such other action as may be necessary. The State may, after ascertaining the facts and the extent of the delay, extend the time for completing performance when the facts so justify and amend the timetable on the Schedule accordingly. The State will not be liable for any increased costs, including price escalation, beyond the original performance or delivery date, due to causes beyond either party's reasonable control.

**21. Term and Termination.**

**21.1 Term.** The Term shall commence on the Effective Date and continue, unless earlier terminated pursuant to this Section 21, through the Term.

**21.2 Termination for Cause.** The State may terminate this Agreement at any time immediately upon notice to Consultant in the event of a breach by Consultant of any of the terms and conditions of this Agreement.

**21.3 Other Termination.** The State may terminate this Agreement at any time: (i) in the event of the unavailability of appropriated funds; (ii) in the absence of a determination of continued need; (iii) for convenience; or (iv) as otherwise provided in the State of Rhode Island Procurement Regulations General Conditions of Purchase or other applicable law.

**21.4 Effect of Termination.** Upon termination, neither Consultant nor the State shall have any further obligations under this Agreement; except for (i) the liabilities accrued through the date of termination; and (ii) the obligations which by their terms survive termination, including, without limitation, the indemnification, confidentiality, and warranty provisions of this Agreement, shall survive termination..

**22. Assignment.** This Agreement may not be assigned by Consultant without the prior consent of the State. Any attempt to assign any rights, duties, or obligations which arise under this Agreement without such consent will be void.

**23. Indemnification.** Consultant shall defend, indemnify, and hold the State harmless from and against any and all claims, demands, causes of action, losses, obligations, damages, judgments, liabilities, or other costs and expenses (including attorneys' fees) incurred by the State which, directly or indirectly, arise out of or result from: (i) Consultant's breach of any provision of this Agreement; or (ii) the acts or omissions of Consultant, its Subcontractors, and their its employees or agents.

**24. Third-Party Beneficiary.** The User Agency is a disclosed third-party beneficiary of this Agreement and shall have all of the rights and benefits to which such a party is entitled hereunder. No provision of this Agreement will in any way inure to the benefit of any other third person so as to constitute any such Person a third-party beneficiary of this Agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

**25. Notices.** All consents, approvals, authorizations, notices, and other communications required or permitted under this Agreement shall be in writing and shall be delivered by personal service, or by certified or registered mail, postage prepaid, return receipt requested, or by electronic mail to the parties in care of the representatives and at the addresses listed on the Schedule. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given as provided in this Section 25 shall be deemed to be the date of receipt of the notice, demand or request sent. By notice sent in the manner set forth herein, the State and Consultant shall have the right from time to time and at any time during the Term to change their addresses for notices and each shall have the right to specify as its address for notices any other address within the United States of America.

**26. Relationship.** Nothing in this Agreement is intended to or shall constitute either party as an agent, legal representative, partner, joint venturer, franchisee, employee, or servant of the other for any purpose. Consultant is an independent contractor and responsible for all acts and omissions of its employees, agents, and Subcontractors. Contractor is solely responsible for withholding and paying any and all federal, state, and local taxes, social security payments, and any other taxes or payments which may be due incident to payments made by the State for the Services. No act or order of the State shall be deemed to be the exercise of supervision over, or control of performance of, Consultant hereunder.

**27. Complete Contract; Amendment.** The terms and conditions of this Agreement constitute the entire agreement between the State and Consultant and supersede all negotiations, agreements, representations, statements, and understandings, whether oral, digital, or written, with respect to the subject matter hereof, and no party hereto shall be bound by nor charged with any oral or written agreements, representations, statements, or understandings not specifically set forth in or incorporated into this Agreement. This Agreement may be amended only by a writing signed by both the State and Consultant.

**28. Further Assurances.** Consultant will do all acts and things and make, execute, and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of this Agreement.

**29. Consent.** Whenever in this Agreement, or in any other agreement, or document executed and/or delivered in connection herewith, the consent or approval of the State

is permitted or required, such consent or approval must be in writing and shall be given exclusively by the State Purchasing Agent, or his or her duly authorized designee.

**30. Validity.** In the event that this Agreement contains any unlawful provision not an essential part of the Agreement and which shall not appear to have been a controlling or material inducement to the making thereof, the same shall be deemed of no effect and shall, upon notice by either party, be deemed stricken from the Agreement without affecting in any respect whatsoever the validity or enforceability of the remainder of this Agreement.

**31. Governing Law.** This Agreement has been entered into in the state of Rhode Island and all questions with respect to this Agreement, and the rights and liabilities of the parties hereto, shall be governed by the laws of this state, without reference to its choice of law provisions. Consultant irrevocably consents and submits to the exclusive jurisdiction of the courts of the state of Rhode Island and the United States District Court for the District of Rhode Island, as well as to the jurisdiction of all courts from which an appeal may be taken from such courts, for the purpose of any suit, action, or other proceeding arising out of any of its obligations hereunder, and waives any objection it may have to the venue of any such suit, action or other proceeding in such courts and any claim that any such suit, action, or proceeding has been brought in an inconvenient forum. Nothing in this Section 31 shall affect the right of the State to bring any suit, action, or proceeding against Consultant or its property in the courts of any other jurisdictions.

**32. Waiver.** No consent or waiver, express or implied, by the State to or of any breach or default by Consultant of its obligations hereunder shall be deemed or construed to be consent or waiver to or of any other breach or default in the performance by Consultant of the same or any other obligations of Consultant hereunder. Failure on the part of the State to declare Consultant in default, irrespective of how long such failure continues, shall not constitute a waiver by the State of its rights hereunder. The giving of consent by the State in any one instance shall not limit or waiver the necessity to obtain the State's consent in any future instance.

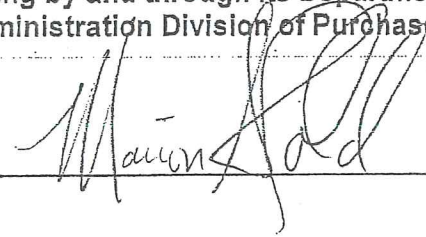
**33. Successors and Assigns.** This Agreement, and all of the rights, benefits, duties, liabilities, and obligations of the parties hereto shall inure to the benefit of, and be binding upon, the State and Consultant and their successors and assigns.

IN WITNESS WHEREOF, the State and Consultant have each caused this Agreement to be executed by its duly authorized officer as of the date and year set forth on the Schedule.

CONSULTANT

THE STATE OF RHODE ISLAND,  
acting by and through its Department of  
Administration Division of Purchases

  
\_\_\_\_\_  
Signature

By:   
\_\_\_\_\_

Robert C. Grace, President  
Printed name and title of signatory

Sustainable Energy Advantage, LLC  
Legal name of Consultant

PROFESSIONAL SERVICES AGREEMENT

SCHEDULE

REQUEST FOR PROPOSAL No.: 7548892

CONSULTANT: SUSTAINABLE ENERGY ADVANTAGE, LLC

TYPE OF LEGAL ENTITY: SINGLE-MEMBER LIMITED LIABILITY COMPANY

LOCAL

OFFICE: 10 Speen Street, 3rd Floor

Framingham, MA 01701  
(City/State/Zip code)

PRINCIPAL

OFFICE: Same as Local Office  
(Street/Unit Number)

(City/State/Zip code)

TELEPHONE: (508) 665-5855  
(LOCAL) ( PERMANENT) (CELL)

COMPANY MAIN CONTACT EMAIL: Robert Grace, President, bgrace@seadvantage.com

PROJECT LEAD CONTACT: Jason Gifford, Director, (508) 665-5856  
(NAME) (TITLE) (TELEPHONE: DAY/EVENING)

PROJECT LEAD CONTACT EMAIL: igifford@seadvantage.com

BILLING CONTACT: Kathryn Craddock, Director of Operations, 508-665-5857  
BILLING CONTACT EMAIL: kcraddock@seadvantage.com

SCOPE OF

SERVICES: The development of the 2015 Ceiling Prices for the Renewable Energy Growth Program in accordance with the Request for Proposal #7548892 and Sustainable Energy Advantages submitted proposal.

SUBCONTRACTORS:

MEISTER CONSULTANTS GROUP, INC.

IN ADDITION, SEA IS ACTIVELY PURSUING MBE/ WBE SERVICES IN GOOD FAITH AS PART OF THIS CONTRACT. SEA AND THE DEPARTMENT OF ADMINISTRATION WILL WORK TOGETHER TO REVISE THIS AGREEMENT, AS NECESSARY, SHOULD ADDITIONAL SUBCONTRACTOR SERVICES BE RETAINED.

EFFECTIVE DATE: SEPTEMBER 15, 2014

FEES: THE TOTAL FEE FOR THIS ENGAGEMENT IS \$50,700. THE SCOPE OF WORK ASSOCIATED WITH THIS FEE IS OUTLINED WITHIN SUSTAINABLE ENERGY ADVANTAGE'S PROPOSAL IN RESPONSE TO RFP 7548892.

INVOICING: Invoices will be prepared monthly and will include a written summary of the work performed during the billing period, but will not include timesheets for SEA or Subcontractors. Invoices will be submitted in the following amounts for each of the six months October 2014 through March 2015, which represent a good faith estimate of the level of effort required in each phase of the engagement:

	<u>Oct.</u>	<u>Nov.</u>	<u>Dec.</u>	<u>Jan.</u>	<u>Feb.</u>	<u>Mar.</u>
<u>Invoice Amount</u>	<u>\$10,140</u>	<u>\$10,140</u>	<u>\$10,140</u>	<u>\$10,140</u>	<u>\$5,070</u>	<u>\$5,070</u>

Payments will be issued within 30 days of receipt of invoices submitted by Sustainable Energy Advantage to the Office of Energy Resources.

RETAINAGE: 0%

TERM: September 15, 2014 – April 15, 2015


TIMETABLE:

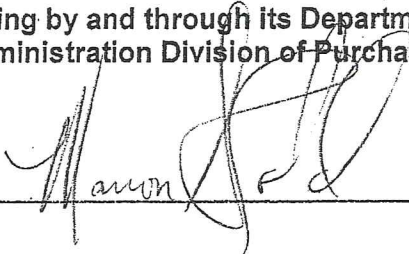
ADDITIONAL PROVISIONS: FOR A FULL SCOPE OF SERVICES PERFORMED IN DEVELOPING THE 2015 CEILING PRICES FOR THE RENEWABLE ENERGY GROWTH PROGRAM, PLEASE VIEW SUSTAINABLE ENERGY ADVANTAGE SUBMITTAL FOR THE REQUEST FOR PROPOSAL #7548892.

DATE OF AGREEMENT:

CONSULTANT

THE STATE OF RHODE ISLAND,  
acting by and through its Department of  
Administration Division of Purchases

  
\_\_\_\_\_  
Signature

By:   
\_\_\_\_\_

Robert C. Grace, President  
Printed name and title of signatory

Sustainable Energy Advantage, LLC  
Legal name of Consultant