AGREEMENT BETWEEN THE COUNTY OF DUPAGE, ILLINOIS
AND S.C.A.R.C.E. FOR PROFESSIONAL ENVIRONMENTAL EDUCATION SERVICES

This Professional Service Agreement ("AGREEMENT"), is made this 26th day of November, 2019 between COUNTY OF DUPAGE, a body politic and corporate, with offices at 421 North County Farm Road, Wheaton, Illinois; (hereinafter referred to as the COUNTY) and S.C.A.R.C.E., licensed to do business in the State of Illinois, with offices at 0N374 Papworth St., Wheaton, Illinois; (hereinafter referred to as the CONSULTANT). The COUNTY and the CONSULTANT are hereafter sometimes individually referred to as a “party” or together as the “parties.”

RECITALS

WHEREAS, the Illinois General Assembly has granted the County of DuPage, Illinois (hereinafter referred to as the “COUNTY”) authority to plan for the management of the COUNTY’s waste and recycling stream pursuant to the Solid Waste Planning and Recycling Act (415 ILCS 15/1, et seq.); and

WHEREAS, the County of DuPage in 1991 adopted the DuPage County Solid Waste Management Plan that emphasized the importance of waste reduction, recycling and education; and

WHEREAS, the Illinois General Assembly has granted the County of DuPage (“COUNTY”) authority to enter into agreements and do all other acts in relation to the concerns of the County necessary to the exercise of its corporate powers (55 ILCS 5/5-1005); and

WHEREAS, the COUNTY has been providing environmental education services to residents, community groups and local governments since 1991; and

WHEREAS, the COUNTY selected the CONSULTANT in accordance with the Professional Services Selection Process found in Section 4-108(b) of the DuPage County Purchasing Procedures and Guidelines, and the CONSULTANT remains qualified to perform such services; and

WHEREAS, the CONSULTANT has experience and expertise in providing environmental educational services, is a 501(c)3 non-profit and is willing to provide the described services for an amount not to exceed One Hundred Thirty Six Thousand Five Hundred Dollars ($136,500.00).
NOW THEREFORE, in consideration of the premises, mutual covenants, terms, and conditions herein set forth, and the understandings of each party to the other, the parties do hereby mutually covenant, promise and agree as follows:

1.0 INCORPORATION AND CONSTRUCTION.

1.1 All recitals set forth above are incorporated herein and made part thereof, the same constituting the factual basis for this AGREEMENT.

1.2 The headings of the paragraphs and subparagraphs of this AGREEMENT are inserted for convenience of reference only and shall not be deemed to constitute part of this AGREEMENT or to affect the construction hereof.

1.3 The exhibits referenced in this AGREEMENT shall be deemed incorporated herein and a part thereof.

2.0 SCOPE OF SERVICES

2.1 Services are to be provided by the CONSULTANT according to the specifications in the Scope of Work, specified as Exhibit “A”, attached hereto, which is hereby incorporated by reference. The CONSULTANT shall complete all of the work set forth in said exhibit for the compensation amount set forth in Section 7.2 below, unless otherwise modified.

2.2 The COUNTY may, from time to time, request changes in the Scope of Work. Any such changes, including any increase or decrease in CONSULTANT'S compensation or Scope of Work, shall be documented by an amendment to this AGREEMENT in accordance with Section 14.0 of this AGREEMENT, except as allowed in Paragraph 15.2 below.

2.3 The relationship of CONSULTANT to COUNTY is that of independent contractor, and nothing in this AGREEMENT is intended nor shall be construed to create an agency, employment, or joint venture relationship, or any other relationship allowing COUNTY to exercise control or direction over the manner or method by which CONSULTANT or its subcontractors provide services hereunder.

2.4 Any work, assignments or services to be performed by professionals under this AGREEMENT shall be performed and/ or supervised by individuals licensed to practice by the State of Illinois in the applicable professional discipline.
3.0 NOTICE TO PROCEED.

3.1 Authorization to proceed with tasks described in Exhibit "A" shall be given on behalf of the COUNTY by the Director of Public Works and Operations, (hereinafter referred to as the "Director"), in the form of a written notice to proceed following execution of the AGREEMENT by the appropriate County official.

3.2 In addition to the Notice to Proceed, the Director, or his/her designee, may, on behalf of the COUNTY, approve, deny, receive, accept or reject any submission, notices or invoices from or by CONSULTANT, as provided for in this AGREEMENT, including, but not limited to, acts performed in accordance with Paragraphs 3.3, 4.1, 5.2, 6.4, 7.1, 8.2, 8.3, 15.3 and 21.2.

3.3 The CONSULTANT shall not perform additional work related to a submittal made to the COUNTY until the COUNTY has completed its review of the submittal unless otherwise directed by the Director or his designee. The CONSULTANT may continue to work on items unrelated to the submittal under review by the COUNTY.

4.0 TECHNICAL SUBCONSULTANTS AND VENDORS.

4.1 The prior written approval of the COUNTY, through the person designated in Paragraph 3.1 above, shall be required before CONSULTANT hires any party to complete COUNTY-ordered technical or professional tasks or work included within the Scope of Work.

4.2 The CONSULTANT shall supervise all vendors hired by the CONSULTANT, and the CONSULTANT shall be solely responsible for any and all work performed by said vendors in the same manner and with the same liability as if the vendors’ work was performed by the CONSULTANT.

4.3 The CONSULTANT shall require any vendor hired for the performance of any work or activity in connection to this AGREEMENT to agree and covenant that said vendor also meets the terms of Sections 8.0 and 13.0 and Paragraphs 7.9 and 24.4 of this AGREEMENT and shall fully comply therewith while engaged by CONSULTANT in COUNTY-ordered tasks or work. The CONSULTANT shall further require every vendor hired for the performance of any work or activity in connection to this AGREEMENT to agree and covenant to indemnify and hold harmless the COUNTY (and the COUNTY’S officials, officers, employees, and agents) to the same extent the CONSULTANT is required to do so pursuant to Section 9.0 of this AGREEMENT.
5.0 **TIME FOR PERFORMANCE**

5.1 The CONSULTANT shall commence work within five (5) working days after the COUNTY issues its Written Notice to Proceed. The COUNTY is not liable and will not pay the CONSULTANT for any work performed before the date of the Notice to Proceed.

5.2 Unless otherwise defined in the Scope of Work, the CONSULTANT shall submit a schedule for completion of the project within ten (10) days of the written Notice to Proceed. The schedule is subject to approval by the COUNTY. All services required hereunder shall be completed by November 30, 2020, unless the term of this AGREEMENT is extended.

5.3 If the CONSULTANT is delayed at any time in the progress of the work by any act or neglect of the COUNTY or by an employee of COUNTY or by changes ordered by the COUNTY, or any other causes beyond the CONSULTANT’s control, then the sole remedy and allowance made shall be an extension of time for completion. Such extension shall be that which is determined reasonable by the COUNTY upon consultation with CONSULTANT. The CONSULTANT shall accept and bear all other costs, expenses and liabilities that may result from such delay.

6.0 **DELIVERABLES**

6.1 The CONSULTANT shall provide the COUNTY on or before the expiration of this AGREEMENT, or within fourteen (14) days following a notice of termination, or when the DIRECTOR directs, the deliverables specified in Exhibit “B” of this AGREEMENT, attached hereto, which is hereby incorporated by reference.

7.0 **COMPENSATION**

7.1 The COUNTY shall pay the CONSULTANT for services rendered and shall only pay in accordance with the provisions of this AGREEMENT. The COUNTY shall only pay the CONSULTANT for “on-call” services when such services have been ordered by the COUNTY in writing. The COUNTY shall not be obligated to pay for any services not in compliance with this AGREEMENT.

7.2 Total payments to the CONSULTANT under the terms of this AGREEMENT shall not under any circumstances exceed One Hundred Thirty-Six Thousand Five Hundred Dollars ($136,500.00). This amount is a “not to exceed” amount. In the event the COUNTY directs CONSULTANT to do work which would cause the stated amount to be exceeded, the CONSULTANT shall not be responsible for such work until this AGREEMENT is modified pursuant to Article 14.0. The CONSULTANT may charge the COUNTY for direct expenses incurred during such work.
7.3 The CONSULTANT shall invoice the COUNTY and the COUNTY shall pay the CONSULTANT equal monthly payments of Eleven Thousand Three Hundred and Seventy-Five Dollars ($11,375.00) upon presentation of an invoice and documentation as set forth in Exhibit B - Deliverables which indicates that a portion of work has satisfactorily been completed. The COUNTY reserves the right to withhold the final monthly payment equal to Eleven Thousand Three Hundred and Seventy-Five Dollars ($11,375.00) to ensure completion of all tasks referenced in the Scope of Services.

7.4 Reserved.

7.5 The CONSULTANT shall submit its invoices, for services rendered and allowable expenses, to the COUNTY on a not more often than monthly basis, and not later than sixty (60) days following completion of the work performed, the budgeted hours and money for the pay period per task, the actual hours and money spent during the pay period per task, personnel used per task, and the percentage complete for each task. When requested by the COUNTY as a condition of Federal or State assistance and, or, reimbursement, the CONSULTANT shall submit certified time sheets as additional documentation for the invoiced work. The CONSULTANT shall provide the COUNTY with a valid taxpayer identification number prior to making any request for compensation.

7.6 Upon receipt, review and approval of properly documented invoices, the COUNTY shall pay, or cause to be paid, to the CONSULTANT the amounts invoiced, provided that the amount invoiced together with the amounts of previous partial payments do not exceed the total compensation specified in this AGREEMENT. The COUNTY may not deny a properly documented claim for compensation, in whole or in part, without cause. The COUNTY reserves the right to hold back a sum equal to not more than five percent (5%) of the total contract sum to ensure CONSULTANT’s full performance. The COUNTY shall not be required to pay CONSULTANT more often than monthly.

7.7 Following the CONSULTANT’s satisfactory completion of all work specified in Exhibit “A”, and upon receipt, review and acceptance of all deliverables specified in Exhibit “B”, the COUNTY shall make its final payment to the CONSULTANT, including payment of any retainage held back pursuant to Paragraph 7.6 above.

7.8 The COUNTY reserves the right to charge for additional processing of invoices received more than sixty (60) days following the date of the work invoiced. Payment will not be made on invoices submitted later than six-months (180) days after the expiration date of this AGREEMENT and any statute of limitations to the contrary is hereby waived.

7.9 Invoices containing charges for work subject to the Illinois Prevailing Wage Act (820 ILCS 130/) are required to be accompanied by the applicable Certified Transcript of Payroll form(s) for acceptance. If the scope of work for this
AGREEMENT includes the use of job classifications covered by the prevailing rate of wages, the prevailing rate must be reflected in the cost estimate for this AGREEMENT. The rates have been ascertained and certified by the Illinois Department of Labor for the locality in which work is to be performed. If the Illinois Department of Labor revises the prevailing rates, the CONSULTANT may not pay less than the revised rates of wages. Current wage rate information shall be obtained by visiting the Illinois Department of Labor website at [http://www.state.il.us/agency/idol/](http://www.state.il.us/agency/idol/) or calling (312) 793-2814. It is the responsibility of the CONSULTANT to review the rates applicable to the work in this AGREEMENT, at regular intervals, in order to ensure the timely payment of current rates. Provision of this information to the CONSULTANT, by means of the Illinois Department of Labor website, satisfies the notification of revisions by the COUNTY to the CONSULTANT, pursuant to the Act, and the CONSULTANT agrees that no additional notice is required. The CONSULTANT shall notify each of its vendors of the revised rates of wages.

8.0 **CONSULTANT'S INSURANCE**

8.1 The CONSULTANT shall maintain throughout the term of this AGREEMENT, at its sole expense, insurance coverage including:

8.1.a **Worker's Compensation Insurance** in the statutory amounts.

8.1.b **Employer's Liability Insurance** in an amount not less than one million ($1,000,000) dollars each accident/injury and one million ($1,000,000) dollars each employee/disease.

8.1.c **Commercial (Comprehensive) General Liability Insurance**, (including contractual liability) with a limit of not less than two million dollars ($2,000,000.00) aggregate; including limits of not less than two million dollars ($2,000,000.00) per occurrence, and one million dollars ($1,000,000.00) excess liability. **An Endorsement must also be provided naming the County of DuPage c/o Director of Public Works and Operations, its’ officers, elected officials and employees, 421 N. County Farm Rd., Wheaton, IL 60187, as an additional insured. This additional insured endorsement is to be on a primary and non-contributory basis, and include a waiver of subrogation endorsement.**

8.1.d **Commercial (Comprehensive) Automobile Liability Insurance** with minimum limits of at least one million ($1,000,000) dollars for any one person and one million ($1,000,000) dollars for any one occurrence of death, bodily injury or property damage in the aggregate annually. **An Endorsement must also be provided naming the County of DuPage c/o Director of Public Works and Operations, its’ officers, elected officials**
and employees, 421 N. County Farm Rd., Wheaton, IL 60187, as an additional insured. This additional insured endorsement is to be on a primary and non-contributory basis and include a waiver of subrogation endorsement.

8.2 It shall be the duty of the CONSULTANT to provide to the COUNTY, copies of the CONSULTANT’S Certificates of Insurance, as well as all applicable coverage and cancellation endorsements before issuance of a Notice to Proceed. It is the further duty of the CONSULTANT to immediately notify the COUNTY if any insurance required under this AGREEMENT has been cancelled, materially changed, or renewal has been refused, and the CONSULTANT shall immediately suspend all work in progress and take the necessary steps to purchase, maintain and provide the required insurance coverage. If a suspension of work should occur due to insurance requirements, upon verification by the COUNTY of the CONSULTANT curing any breach of its required insurance coverage, the COUNTY shall notify the CONSULTANT that the CONSULTANT can resume work under this AGREEMENT. The CONSULTANT shall accept and bear all costs that may result from the cancellation of this AGREEMENT due to CONSULTANT’s failure to provide and maintain the required insurance.

8.3 The coverage limits required under subparagraphs 8.1.c and 8.1.d above may be satisfied through a combination of primary and excess coverage. The insurance required to be purchased and maintained by the CONSULTANT shall be provided by an insurance company acceptable to the COUNTY, and except for the insurance required in subparagraph 8.1.e licensed to do business in the State of Illinois; and shall include at least the specific coverage and be written for not less than the limits of the liability specified herein or required by law or regulation whichever is greater; and materially changed until at least sixty (60) days prior written notice has been given to the COUNTY except for cancellation due to non-payment of premium for which at least fifteen (15) days prior written notice (five days allowed for mailing time) has been given to the COUNTY. If the CONSULTANT is satisfying insurance required through a combination of primary and excess coverage, the CONSULTANT shall require that said excess/umbrella liability policy include in the “Who is Insured” pages of the excess/umbrella policy wording such as “Any other person or organization you have agreed in a written contract to provide additional insurance” or wording to that effect. The CONSULTANT shall provide a copy of said section of the excess/umbrella liability policy upon request by the COUNTY.

8.4 The CONSULTANT shall require that any of its vendors performing work under this AGREEMENT, including anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable under this AGREEMENT, to maintain the same insurance required of the CONSULTANT, and, further, which names the COUNTY as an additional insured on a primary and non-contributory basis in the same coverage types and same coverage amounts as
the CONSULTANT shall keep on file evidence of its vendors’ insurance coverage at all times and shall produce same to the COUNTY upon demand.

8.5 CONSULTANT’s insurance required by Paragraphs 8.1.c and d, above, shall name the COUNTY, its officers and employees as additional insured parties. The Certificate of Insurance and endorsements shall state: “The County of DuPage, its officers and employees are named as additional insureds as defined in the {Commercial (Comprehensive) General Liability Insurance policy and/or Commercial (Comprehensive) Automobile Liability Insurance policy, as applicable} with respect to claims arising from CONSULTANT’s performance under this AGREEMENT.”

9.0 INDEMNIFICATION

9.1 The CONSULTANT shall indemnify, hold harmless and defend the COUNTY, its officials, officers, employees, and agents from and against all liability, claims, suits, demands, proceedings and actions, including costs, fees and expense of defense, arising from, growing out of, or related to, any loss damage, injury, death, or loss or damage to property resulting from, or directly connect with, the CONSULTANT’s, or its vendor’s negligent or willful misconduct, errors or omissions in its, or their performance under this AGREEMENT.

9.2 Nothing contained herein shall be construed as prohibiting the COUNTY, its officials, directors, officers, agents and employees, from defending through selection and sue of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. Pursuant to Illinois law, the attorney representing the COUNTY, under this paragraph or paragraph 9.1, must be the State’s Attorney, in accordance with the applicable law. The COUNTY’s participation in its defense shall not remove CONSULTANT’s duty to indemnify, defend and hold the COUNTY harmless, as set forth above.

9.3 Any indemnity as provided in this AGREEMENT shall not be limited by reason of the enumeration of any insurance coverage herein provided. CONSULTANT’s indemnification of COUNTY shall survive the termination, or expiration of this AGREEMENT.

9.4 The COUNTY does not waive, by these indemnity requirements, any defenses or protections under the Local Government and Governmental Employees Tort Liability Act (745 ILCS 10/1, et seq.) or otherwise available to it, or the CONSULTANT, under the law.

10.0 SATISFACTORY PERFORMANCE

10.1 The COUNTY is engaging this CONSULTANT because the CONSULTANT professes to the COUNTY that it will employ the standard of care within its profession in the performance of the services herein contracted. Accordingly, the
10.2 In the event there are no similar professional firms practicing in DuPage County, Illinois with respect to the type of work for which this CONSULTANT has been engaged, the CONSULTANT’s services, and its vendors’, shall be performed in a manner consistent with the customary skill and care of its profession.

10.3 If any errors, omissions, or acts, intentional or negligent, are made by the CONSULTANT, or its vendors, in any phase of the work, the correction of which requires additional field or office work, the CONSULTANT shall be required to perform such additional work as may be necessary to remedy same without undue delay and without charge to the COUNTY. In the event any errors or omissions are detected after the AGREEMENT’s expiration or termination, the CONSULTANT shall have no right to cure under this provision.

10.4 Acceptance of the work shall not relieve the CONSULTANT of the responsibility for the quality of its work, nor its liability for loss or damage resulting from any errors, omissions or negligent or willful misconduct by the CONSULTANT or its vendors.

11.0 BREACH OF CONTRACT

11.1 In the event of any breach of contract, the non-breaching party shall give notice to the breaching party stating with particularity the nature of the alleged breach. The breaching party shall be allowed a reasonable opportunity to cure the breach. A Party’s failure to timely cure any material breach of this AGREEMENT SHALL RELIEVE THE OTHER Party of the requirement to give thirty (30) day notice for termination of this AGREEMENT in accordance with Paragraph 16.1, below. Whenever a party hereto has failed to timely cure a breach of this AGREEMENT, by giving ten (10) days written notice thereof to the breaching party. Notwithstanding the above term, the CONSULTANT’s failure to maintain insurance in accordance with Section 8.0 above, or in the event of any of the contingencies described in Paragraph 16.1, below, shall be grounds for the COUNTY’s immediate termination of this AGREEMENT. A breach of any covenant or term of this AGREEMENT by one of the CONSULTANT’s vendors shall be deemed a breach by the CONSULTANT.

12.0 OWNERSHIP OF DOCUMENTS

12.1 The CONSULTANT agrees that all deliverables prepared for the COUNTY under the terms of this AGREEMENT shall be properly arranged, indexed and delivered to the COUNTY as provided in Paragraph 6.1. An electronic copy of all applicable
deliverables, in a format designated by the COUNTY’s representative shall be provided to the COUNTY.

12.2 The documents and materials made or maintained under this AGREEMENT shall be and will remain the property of the COUNTY which shall have the right to use same without restriction or limitation and without compensation to the CONSULTANT other than as provided in this AGREEMENT. The CONSULTANT waives any copyright interest in said deliverables.

12.3 The COUNTY acknowledges that the use of information that becomes the property of the COUNTY pursuant to Paragraph 12.2, for purposes other than those contemplated in this AGREEMENT, shall be at the COUNTY’s sole risk.

12.4 The CONSULTANT may at its sole expense, reproduce and maintain copies of deliverables provided to the COUNTY.

13. COMPLIANCE WITH THE LAW AND OTHER AUTHORITY

13.1 The CONSULTANT, and its vendors, shall comply with Federal, State and Local statutes, ordinances and regulations and obtain permits, licenses, or other mandated approvals, whenever applicable.

13.2 The CONSULTANT, and its vendors, shall not discriminate against any worker, job applicant, employee or any member of the public, because of race, creed, color, sex, sexual orientation, age, handicap, or national origin, or otherwise commit an unfair employment practice. CONSULTANT, and its vendors, shall comply with the provisions of the Illinois Human Rights Act, as amended, 775 ILCS 5/1-101, et seq., and with all rules and regulations established by the Department of Human Rights.

13.3 The CONSULTANT, by its signature on this AGREEMENT, certifies that it has not been barred from being awarded a contract or subcontract under the Illinois Procurement Code, 30 ILCS 500/1-1, et seq.; and further certifies that it has not been barred from contracting with a unit of State or local government as a result of a violation of Section 33E-3 or 33E-4 of the Illinois Criminal Code (Illinois Compiled Statutes, Chapter 720, paragraph 5/33E-3); and further certifies that it has been barred from public contracting under any Federal statute or regulation. The CONSULTANT agrees that it shall not use any vendor that has been barred from being awarded a public contract, or subcontract, under Illinois or Federal law to perform work under this AGREEMENT.

13.4 The CONSULTANT, by its signature on this AGREEMENT, certifies that no payment, gratuity or offer of employment, except as permitted by the Illinois State Gift Ban Act and the County of DuPage Ethics Ordinance, was made by or to the CONSULTANT, or CONSULTANT’s personnel, in relation to this AGREEMENT. The CONSULTANT has also executed the attached Ethics
Disclosure Statement that is made part hereof and agrees to update contribution information on an ongoing basis during the life of the AGREEMENT as required by said Ordinance.

13.5 The CONSULTANT covenants that it has no conflicting public or private interest and shall not acquire directly or indirectly any such interest which would conflict in any manner with the performance of CONSULTANT’s services under this AGREEMENT.

14.0 MODIFICATION OR AMENDMENT

14.1 The parties may modify or amend terms of this AGREEMENT only by a written document duly approved and executed by both parties.

14.2 The CONSULTANT acknowledges receipt of a copy of the DuPage County Procurement Ordinance, which is hereby incorporated in this AGREEMENT, and has had an opportunity to review it. CONSULTANT agrees to submit changes to the Scope of Work or compensation in accordance with said Ordinance.

15.0 TERM OF THIS AGREEMENT

15.1 The term of this AGREEMENT shall begin on the date of the AGREEMENT is fully executed, and shall continue in full force and effect until the earlier of the following occurs:

(a) The early termination of this AGREEMENT in accordance with the terms of Section 16.0, or

(b) The expiration of this AGREEMENT on November 30, 2020 or to a new date agreed upon by the parties.

(c) The completion by the CONSULTANT and COUNTY of their respective obligations under this AGREEMENT, in the event such completion occurs before November 30, 2020.

15.2 The CONSULTANT shall not perform any work under this AGREEMENT after the expiration date set forth in Paragraph 15.1(b), above, or after the early termination of this AGREEMENT, or during a provisional extension period. The COUNTY is not liable and will not pay the CONSULTANT for any work performed after the AGREEMENT’s expiration or termination. However, nothing herein shall be construed so as to relieve the COUNTY of its obligation to pay the CONSULTANT for work satisfactorily performed prior to the AGREEMENT’s termination or expiration, and delivered in accord with Paragraph 6.1, above.
15.3 The term for performing this AGREEMENT may be amended by a Change Order, or other COUNTY designated form, signed by both parties without formal amendment pursuant to Paragraph 14.1, above.

16.0 TERMINATION

16.1 Except as otherwise set forth in this AGREEMENT, either party shall have the right to terminate this AGREEMENT for any cause or without cause thirty (30) days after having served written notice upon the other party, except in the event of the CONSULTANT’s failure to maintain suitable insurance at the requisite coverage amounts, insolvency, bankruptcy or receivership, or if the CONSULTANT is barred from contracting with any unit of government, or is subsequently convicted or charged with a violation of any of the statutes or ordinance identified in Section 13.0 above, in which case termination shall be effective immediately upon receipt of notice from the COUNTY, at the COUNTY’s election.

16.2 Upon such termination, the liabilities of the parties to this AGREEMENT shall cease, excepting surviving insurance and indemnification obligations, but the parties shall not be relieved of the duty to perform their obligations up to the date of termination, or to pay for deliverables tendered prior to termination. There shall be no termination expenses.

16.3 Upon termination of this AGREEMENT, all data, work products, reports and documents produced because of this AGREEMENT shall become the property of the COUNTY. Further, CONSULTANT shall provide all deliverables within fourteen (14) days of termination in accordance with the other provisions of this AGREEMENT.

17.0 ENTIRE AGREEMENT

17.1 This AGREEMENT, including matters incorporated herein, contains the entire agreement between the parties.

17.2 There are no other covenants, warranties, representation, promises, conditions or understanding; either oral or written, other than those contained herein.

17.3 This AGREEMENT may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

17.4 In event of a conflict between the terms or conditions or this AGREEMENT and any term or condition found in any exhibit or attachment, the terms and conditions of this AGREEMENT shall prevail.
18.0 ASSIGNMENT

18.1 Either party may assign this AGREEMENT provided, however, the other party shall first approve such assignment, in writing.

19.0 SEVERABILITY

19.1 In the event, any provision of this AGREEMENT is held to be unenforceable or invalid for any reason, the enforceability thereof shall not affect the remainder of the AGREEMENT. The remainder of this AGREEMENTS shall be construed as if not containing the particular provision and shall continue in full force, effect and enforceability, in accordance with its terms.

19.2 In the event of the contingency described in Paragraph 19.1, above, the parties shall make a good faith effort to amend this AGREEMENT pursuant to Paragraph 14.1 above, in order to remedy and, or, replace, any provision declared unenforceable or invalid.

20.0 GOVERNING LAW

20.1 The laws of the State of Illinois shall govern this AGREEMENT as to both interpretation and performance.

20.2 The venue for resolving any disputes concerning the parties’ respective performance, or failure to perform, under this AGREEMENT, shall be the judicial circuit court for DuPage County.

21.0 NOTICES

21.1 Any required notice shall be sent to the following addresses and parties:

For COUNTY:

DuPage County Environmental Division
421 N. County Farm Rd.
Wheaton, IL 60187
Attn. Nicholas W. Kottmeyer, P.E., Director of Public Works and Operations

For CONSULTANT:

S.C.A.R.C.E.
Kay McKeen, Executive Director
0N374 Papworth St.
Wheaton, IL 60187
21.2 All notices required to be given under the terms of this AGREEMENT shall be in writing and either (a) served personally during regular business hours; (8:00 a.m. – 4:30 p.m. CST or CDT Monday – Friday); or (b) served by facsimile transmission during regular business hours (8:00 a.m. – 4:30 p.m. CST or CDT Monday – Friday); or (c) served by email transmittal during regular business hours (8:00 a.m. – 4:30 p.m. CST or CDT Monday – Friday), return receipt requested; or (d) served by certified or registered mail, return receipt requested, properly addressed with postage prepaid. Notices served personally or by facsimile transmission shall be effective upon receipt, notices served by email shall be effective upon confirmation of delivery by electronic receipt, and notices served by mail shall be effective upon receipt as verified by the United States Postal Service. Each party may designate a new location for service of notices by serving notice thereof in accordance with the requirements of this Paragraph, and without compliance to the amendment procedures set forth in Paragraph 14.1, above.

22.0 WAIVER OF/FAILURE TO ENFORCE BREACH

22.1 The parties agree that the waiver of, or failure to enforce, any breach of this AGREEMENT by the remaining party shall not be construed, or otherwise operate, as a waiver of any future breach of this AGREEMENT. Further the failure to enforce any particular breach shall not bar or prevent the remaining party from enforcing this AGREEMENT with respect to a different breach.

23.0 FORCE MAJEURE

23.1 Neither party shall be liable for any delay or non-performance of their obligations caused by any contingency beyond their control including but not limited to Acts of God, war, civil unrest, strikes, walkouts, fires or natural disasters.

24.0 QUALIFICATIONS

24.1 The CONSULTANT shall employ only persons duly licensed or registered in the appropriate category in responsible charge of all elements of the work covered under this AGREEMENT, for which Illinois Statutes require license or registration, and further shall employ only well qualified persons in responsible charge of any elements of the work covered under this AGREEMENT, all subject to COUNTY approval. This provision shall also apply to any vendors used by the CONSULTANT in the performance of AGREEMENT-related work.

24.2 Reserved.

24.3 Failure of the CONSULTANT to use qualified personnel to perform technical or professional service for any task, assignment or project related to this AGREEMENT shall be sufficient cause for the COUNTY to deny payment for services performed by unqualified personnel and will serve as a basis for an immediate termination of this AGREEMENT.
24.4 The CONSULTANT shall require any vendors utilized for AGREEMENT-related work to employ qualified persons to the same extent such qualifications are required of the CONSULTANT’s personnel. The COUNTY shall have the same rights under Paragraph 24.3, above, with respect to the CONSULTANT’s vendors being properly staffed while engaged in AGREEMENT-related work.

IN WITNESS OF, the parties set their hands and seals as of the date first written above.

COUNTY OF DUPAGE

BY: ___________________________
    DANIEL J. CRONIN
    COUNTY BOARD CHAIRMAN

S.C.A.R.C.E.

BY: ___________________________
    KAY MCKEEN
    EXECUTIVE DIRECTOR

ATTEST:

BY: ___________________________
    JEAN KACZMAREK,
    COUNTY CLERK

ATTEST:

BY: ___________________________
    NAME:
    TITLE:
EXHIBIT A

SCOPE OF WORK

The following are the FOCUS AREAS for the below projects:

- Waste Reduction
- Recycling (emphasis on preventing contamination) & Solid Waste Management
- Composting & Gardens
- Environmental Benefits of Local Consumerism i.e. buying locally grown food and other items and shopping locally.

TEACHER EDUCATION PROGRAMS

The CONSULTANT will provide training to teachers in methods that can be used to teach classrooms about Focus Areas. The purpose is to increase the awareness of the Focus Areas and motivate the inclusion of these topics into the school curriculum.

Task 1:  Provide a minimum of twelve (12) teacher workshops or participate in scheduled in-service workshops providing education about waste reduction, recycling, composting, gardening, renewable energy, energy efficiency and buying local.

Task 2:  Provide online learning specifically for educators through various channels including but not limited to newsletters, website, blog posts and social media posting for the Focus Areas listed above.

Task 3:  Develop and provide resources including toolkits, handouts, checklists, guides and video learning tools for the Focus Areas listed above. Identify alternative avenues to reach additional teachers using online resources.

Task 4: CONSULTANT will promote COUNTY programs through website links, social media postings and through handouts including flyers, brochures, program information, renewable energy opportunities and other outreach items to educators and all attendees of education sessions.

STUDENT EDUCATION PROGRAMS

Task 5: CONSULTANT will provide fifty (50) hands-on interactive student environmental education programs and/or assemblies using STEM/STEAM guidelines in the aforementioned Focus Areas. CONSULTANT will endeavor to reach students, including home school students and schools that have not been previously provided with COUNTY funded environmental education services.
PUBLIC/COMMUNITY OUTREACH PROGRAMS

Task 7: CONSULTANT will provide support, as needed, to DuPage communities hosting recycling events. CONSULTANT will develop a toolkit or other similar resource to aid communities in hosting future recycling events. COUNTY support should be mentioned on all advertisements/publications.

Task 8: CONSULTANT will provide or participate in 20 community events/programs to provide education in the Focus Areas. Participation can be completed by hosting a booth or exhibit at a community event or by hosting a program at the CONSULTANT’s Sustainability Center.

Task 9: CONSULTANT will provide a monthly newsletter providing information on the Focus Areas and include information on related COUNTY events, programs or opportunities.

Task 10: CONSULTANT will provide links to the COUNTY’s website for information related to the Focus Areas.

RECOGNITION PROGRAM

Task 11: CONSULTANT will develop a COUNTY approved recognition program or will receive approval for use of existing recognition program for businesses and schools that achieve significant accomplishments in waste reduction, increased recycling and energy efficiency. Eligible business entities should have completed an energy efficiency project that supports Cool DuPage. CONSULTANT will provide detailed metrics to the COUNTY prior to issuing recognition.

Task 12: CONSULTANT will provide COUNTY with detailed metrics for accomplishments attributed to CONSULTANT’s involvement no later than 30 days prior to awarding recognition. CONSULTANT will provide COUNTY with all pertinent contact information for participating organization.

BUSINESS & GOVERNMENT ENERGY EFFICIENCY AND SUSTAINABILITY EDUCATION

Task 13: CONSULTANT will host energy efficiency sessions utilizing ComEd, Nicor and C-PACE personnel to encourage entities to participate in energy efficiency and sustainability assessments/programs offered by the aforementioned entities. COUNTY must be notified when programs are scheduled.
EXHIBIT B
DELIBERABLES
The following deliverables will be submitted to the COUNTY before completion of the contract.

- Electronic copies, in a format approved by COUNTY staff, of brochures, presentations, agendas, outlines, guides, toolkits, handouts, activity manuals developed and/or used for any and all tasks detailed in Exhibit A: Scope of Work. Copies include all information provided to teachers in an electronic format including but not limited to what SCARCE provides as a basis for instruction on the Energy Bike, Solar Energy Programs, Smart Grid System, Green STEM, Energy Conservation, Green Tour Institute Day, 3Rs.

- Social Media posts that are completed pursuant to this Scope of Work, shall tag @Cool DuPage on Twitter and Facebook.

- Monthly report summarizing activities performed by the CONSULTANT, detailed in Exhibit A: Scope of Work. The report should cover activities performed between the first day and last day of the month for which the report is being submitted. Where applicable, the report should include, at a minimum; date and topic of presentations and number and description of attendees or participants. A summary of engagement metrics on social media posts tagged as described above should be included with invoice statements.

- CONSULTANT shall distribute COUNTY flyers, announce COUNTY event and programs in newsletters and on social media platforms with appropriate links to the DuPage County website and tags back to @Cool DuPage or if directed, @DuPageCounty.

- Sign-up information for those interested in receiving the County’s Cool DuPage email communications. Upon request, contact lists for attendees or participants of COUNTY-sponsored programs. CONSULTANT is responsible to advise participants that their information is being shared with the COUNTY as part of this AGREEMENT.

- CONSULTANT shall provide COUNTY with Earth Flag, Earth Flag Re-Certification, Ecology Flag criteria no later than January 31, 2020. Accomplishments from potential recipients will be forwarded to the COUNTY no less than 30 days prior to recognition.

- Invoices shall list the projects, community outreach events and/or teacher programs completed during the billing periods.

- Upon initiation of work with a local business pursuant to the Scope of Work, contact information of business shall be shared with COUNTY staff or its program designee to
enable COUNTY to provide additional information and support for COUNTY programs such as Cool DuPage or C-PACE.