



County of Schenectady

NEW YORK

ANTHONY JASENSKI
CHAIR OF THE LEGISLATURE

GEOFFREY T. HALL
CLERK OF THE LEGISLATURE

SCHENECTADY COUNTY LEGISLATURE

County Office Building
620 State Street – 6th Floor
Schenectady, New York 12305
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DECEMBER 2023
COMMITTEE MEETING SCHEDULE

DATE: 1 December 2023
TO: Honorable Schenectady County Legislators
FROM: Geoffrey T. Hall; Clerk of the Legislature
SUBJECT: Committee Meetings
Monday, December 4, 2023
620 State Street
Legislative Chambers
Sixth Floor – 7:00 PM

7:00 P.M.	Committee on Public Facilities, Transportation & Infrastructure Legislator Patierne, Chair	page 1
Followed by:	Committee on Public Safety and Firefighting Legislator Constantine, Chair	page 94
Followed by:	Committee on Ways & Means Legislator Fields, Chair	page 100



Schenectady County Legislature

Committee on Public Facilities, Transportation and Infrastructure

Hon. Richard Patierne, Chair

6th Floor County Office Building 620 State Street, Schenectady, New York 12305

Phone: (518) 388-4280 Fax: (518) 388-4591

DATE: December 1, 2023
TO: Honorable Schenectady County Legislators
FROM: Geoffrey T. Hall, Clerk of the Legislature
SUBJECT: COMMITTEE AGENDA
Committee on Public Facilities
Honorable Patierne, Chair
Monday, December 4, 2023 at 7:00 p.m
Schenectady County Office Building,
Legislative Chambers, Sixth Floor

Item	Title	Sponsor	Co-Sponsors
PFTI	23 A RESOLUTION REGARDING THE ACCEPTANCE OF MONIES FROM THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR THE PURCHASE OF EQUIPMENT FOR USE AT THE SCHENECTADY COUNTY AIRPORT	Legislator Patierne	
PFTI	24 A RESOLUTION REGARDING THE ACCEPTANCE OF MONIES FROM THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS AT THE SCHENECTADY COUNTY AIRPORT	Legislator Patierne	
PFTI	25 A RESOLUTION TO AUTHORIZE THE COUNTY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH WESTCOTT ENTERPRISES, LLC	Legislator Patierne	

Item	Title	Sponsor	Co-Sponsors
PFTI	26 A RESOLUTION REGARDING THE DESIGNATION OF A RESPONSIBLE LOCAL OFFICIAL FOR PURPOSES OF THE EQUITABLE BUSINESS OPPORTUNITIES REPORTING SYSTEM	Legislator Patierne	

LEGISLATIVE INITIATIVE FORM

Date: 12/1/2023
Reference: Public Facilities, Transportation and Infrastructure
Dual Reference: Ways and Means
Initiative: PFTI 23

Title of Proposed Resolution:

A RESOLUTION REGARDING THE ACCEPTANCE OF MONIES FROM THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR THE PURCHASE OF EQUIPMENT FOR USE AT THE SCHENECTADY COUNTY AIRPORT

Purpose and General Idea:

Provides Authorization to Accept Funding from the NYS Department of Transportation Aviation Division for the Purchase of Snow Removal Equipment at the Airport

Summary of Specific Provisions:

Authorizes acceptance of funding from the NYS Department of Transportation Aviation Division in the amount of \$956,884. Paul Sheldon, Director of Engineering and Public Works, and Peter Knutson, Director of the Bureau of Engineering, indicate that there would be 90% and 10% matches from the State and County, respectively.

Effects Upon Present Law:

The Schenectady County Department of Finance provides the following amendment to the County's 2023 Capital Budget establishing a project to purchase snow removal equipment for the Schenectady County Airport. This project will be 90% funded from a NYS DOT aviation grant and 10% from local County share.

CAPITAL BUDGET

Establish Capital Project 5610230091 - Dual High Engine Snowblower Vehicle

Increase Revenue String By:

H33333.3592	Airport Capital Projects – NYS DOT	<u>\$ 861,195</u>
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Increase Revenue String By:

H93333.5710	Serial Bonds	<u>\$ 95,689</u>
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Increase Appropriation Code By:

H525610.201000 Capital – Aviation Equipment

\$ 956.884

I recommend that this budget amendment be presented to the County Legislature for consideration.

Justification:

This would fund the purchase of a new airport-grade snowblower for the 96- acres of pavement at the airport. It would replace the existing snow blower which is at the end of its useful life.

Sponsor: Legislator Patierne

Co-Sponsor:

COUNTY OF SCHENECTADY

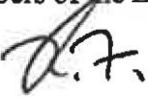


RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Paul Sheldon, Director of Engineering and Public Works
Peter Knutson, Director of the Bureau of Engineering
Jaclyn Falotico, Commissioner of Finance

Date: December 1, 2023

Re: Authorization to Accept Funding from the NYS Department of Transportation
Aviation Division for the Purchase of Snow Removal Equipment at the Airport

Attached are memoranda from Paul Sheldon, Director of Engineering and Public Works, and Peter Knutson, Director of the Bureau of Engineering, requesting authorization to accept funding from the NYS Department of Transportation Aviation Division in the amount of \$956,884. This would fund the purchase of a new airport-grade snowblower for the 96-acres of pavement at the airport. It would replace the existing snow blower which is at the end of its useful life.

As Mr. Knutson indicates, there are 90% and 10% matches from the State and County, respectively.

I recommend your approval.

**Schenectady County
Inter-Department Memorandum**

DATE: November 21, 2023

TO: Rory Fluman, County Manager

FROM: Paul Sheldon, P.E., Director of Public Works *PS*

COPIES: File

SUBJECT: NYSDOT Aviation Grant 1905.05 Snow Removal Equipment Grant

I have attached a memorandum from Peter Knutson, Director of Engineering, regarding a grant from the New York State Department of Transportation (NYSDOT) Aviation Division for the purchase of snow removal equipment at the County Airport. The existing snow blowers are over 25 years old and in need of replacement. This grant will provide a much-needed upgrade to our existing Airport snow removal equipment.

I recommend acceptance of the grant from NYSDOT.

COUNTY OF SCHENECTADY

Memorandum

DATE: November 21st, 2023

TO: Paul Sheldon, Commissioner of Public Works

FROM: Peter Knutson, Senior Civil Engineer

COPY: S. Harris

SUBJECT: NYSDOT Aviation Grant 1905.05 Snow Removal Equipment Grant

The County has been offered a grant from New York State Department of Transportation (NYSDOT) Aviation Division for the procurement of new Snow Removal Equipment (SRE). The airport covers more than 96 acres of pavement which all requires snow removal in winter months, and the newest airport grade snowblower is currently entering into its 30th year in service. This is well beyond the useful life of this type of equipment.

NYSDOT recognized the airports need and awarded us with a grant with a 90% state funded and 10% local match. The total cost of the grant being \$956,884.00 and the County's portion being \$95,689.

The Engineering department requests the legislature approve the grant and allow for the procurement of this crucial piece of SRE.

Sincerely,



Peter Knutson
Director of the Bureau of Engineering

County of Schenectady
620 State Street, 3rd Floor,
Schenectady, N. Y. 12305
(518) 388-4260
(518) 388-4248 Fax



Memo

TO: Rory Fluman, County Manager
FROM: Jaclyn Falotico, Commissioner of Finance *JF*
DATE: November 28, 2023
SUBJECT: 2023 Capital Budget Amendment – Aviation – Dual High Engine Snowblower Vehicle

The Schenectady County Department of Finance provides the following amendment to the County’s 2023 Capital Budget establishing a project to purchase snow removal equipment for the Schenectady County Airport. This project will be 90% funded from a NYS DOT aviation grant and 10% from local County share.

CAPITAL BUDGET

Establish Capital Project 5610230091 - Dual High Engine Snowblower Vehicle

Increase Revenue String By:

H33333.3592	Airport Capital Projects – NYS DOT	<u>\$ 861,195</u>
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Increase Revenue String By:

H93333.5710	Serial Bonds	<u>\$ 95,689</u>
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Increase Appropriation Code By:

H525610.201000	Capital – Aviation Equipment	<u>\$ 956,884</u>
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I recommend that this budget amendment be presented to the County Legislature for consideration.

AVIATION PROJECT FUNDING AGREEMENT

This Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State");

and

the Schenectady County (the "Municipality/Sponsor") with its office at Schenectady, NY

This agreement identifies the party responsible for administration, establishes the method and provision for funding and implementation of an aviation project pursuant to appropriation as such project is more fully described by Schedule A-1 annexed to this agreement or one or more duly executed and approved Supplemental Schedules to this agreement. The project shall be identified for the purposes of this agreement as Schenectady County Airport Snow Removal Equipment at Schenectady County Airport (as more specifically described in Schedule A-1, or supplemental Schedule A's, the "Project").

WITNESSETH:

WHEREAS, Section 14-l of the Transportation Law authorizes the NYSDOT Commissioner to implement the Airport Improvement and Revitalization Program; and

WHEREAS, pursuant to authorizations and appropriations therefore, NYSDOT and the Sponsor are desirous of progressing the Project; and

WHEREAS, the Sponsor attests that the Project has a useful service life as stated on the Schedule A-1 included herein; and

WHEREAS, the Sponsor will administer the Project and submit to NYSDOT for funding of eligible Project costs pursuant to this Agreement; and

WHEREAS, the Legislative or governing Body of the Sponsor by Resolution No. _____ adopted at meeting held on _____ approved the Project and the terms and provisions of this Agreement and has further authorized the _____ of the Sponsor to execute this Agreement on behalf of this Sponsor (copy of such Resolution is attached to and made a part of this Agreement); and

WHEREAS, the Sponsor is not a sectarian institution,

NOW, THEREFORE, the parties agree as follows:

1. *Documents Forming this Agreement.* The agreement consists of the following:
 - Agreement: This document titled "Aviation Project Funding Agreement";
 - Schedule A-1: Description of Project and Funding;
 - Schedule B: Phases, Sub-phase/Tasks, and Allocation of Responsibility;
 - Appendix A: Standard Clauses for New York State Contracts;
 - Appendix A-1: Supplemental Title VI Provisions (Civil Rights Act);
 - Appendix B - Minority and Women-Owned Business Enterprises (M/WBE) -- Service-Disabled Veteran Owned Businesses (SDVOB) - Equal Employment Opportunity (EEO) Policy Statement

- **Resolution(s)** – duly adopted municipal or, as applicable, corporate resolution(s) authorizing the appropriate official of the Sponsor to execute this Agreement on behalf of the Sponsor and appropriating the funding required therefore.

2. General Description of Work. The Sponsor shall procure and provide all services, materials and equipment necessary to complete the Project as more particularly described in Schedule A-1 and Scope of Work described in Schedule B.

3. Maintenance. Upon completion and acceptance of the Project Facilities by Sponsor, Sponsor shall certify in writing to the NYSDOT Commissioner that the Project Facilities have been completed. Upon its completion, Sponsor will operate and maintain the Project facilities as well as ancillary facilities useful or necessary to the function of said facilities, at its own expense in accordance with the requirements of the NYSDOT Commissioner for the period of time corresponding to the period of useful life for such project as determined by Section 61 of the State Finance Law. If the Sponsor intends to have the project facilities maintained by another party, any necessary maintenance contract shall be executed and submitted to NYSDOT before construction commences.

4. Disposition of Project Facilities. Sponsor agrees, that during the period of time during which Title to the Project Facilities paid for by the State is held by the State or in any event if funding of the State's share is from the proceeds of bonds or other obligations issued by the State or any of its public benefit corporations, such Project Facilities shall not be sold, rendered unusable, relinquished, discontinued or disposed of by Sponsor without the express written consent of the NYSDOT Commissioner having first been obtained. In the event of such approved disposition Sponsor shall either cause the purchaser or transferee to assume Sponsor's continuing obligations under this Agreement, or shall reimburse NYSDOT for the pro-rata share of the grant over the remaining useful life of the Project.

5. Method of Performance of Work. Sponsor agrees to undertake or cause to be undertaken and to proceed expeditiously with and complete the project as approved by the NYSDOT Commissioner and as described in the Scope of Work, and to complete or cause to be completed said work within the time limits specified in said Scope of Work. The work shall be performed by Sponsor's own forces or by contract or contracts entered into by the Sponsor in accordance with applicable law and the requirements of this Agreement. Sponsor agrees to obtain or cause to be obtained all approvals, permits and licenses necessary to progress the work, and also agrees to comply or cause to be complied with all applicable Federal, State and Local Laws which in any way impact work to be accomplished by the project.

6. Funding of Project Costs. State financial assistance hereunder shall be in the form of a grant as more specifically described in Schedule A-1. Sponsor shall provide its share of the cost of the Project, if any. Sponsor shall make reasonable efforts to secure federal assistance, if any, for the project.

In the event that federal assistance which was not included in the calculation of the state financial assistance becomes available to the Sponsor, the amount of the state financial assistance shall be recalculated by reducing the amount of the state financial assistance by the amount of such federal assistance, and the Sponsor shall pay to the state the amount by which the state payment actually made exceeds the state financial assistance determined by the recalculation, if any.

6.1 Limits of Funding. Subject to the terms of the appropriation, NYSDOT agrees to make available funds up to the amount identified as State Aid in Schedule A-1 for eligible Project costs incurred by the Sponsor in the performance of the Project, as the Project and the funding therefore is more fully described in Schedules A-1 and B. Project Costs in excess of State funds available for the work shall be the responsibility of Sponsor. Prior to start of construction, Sponsor shall certify the source and availability of funds for Project Costs which are in excess of State funds being made available under this Agreement. If the Sponsor loses funding eligibility, the State shall not be liable for any Project Costs whatsoever.

6.2 Eligible Project Costs. NYSDOT will fund eligible Project costs incurred by the Sponsor in connection with the work covered by this Agreement. Eligible costs shall include, but not be limited to, costs of acquisition, construction, repair, reconstruction, renovation and such other costs associated with the Project as are approved by NYSDOT as reasonable and necessary in the performance of the Project. Eligible costs shall also include salaries and wages to employees of the Sponsor who are engaged in carrying out the Project, fees to consultants and professionals retained by the Sponsor for planning and performing the Project.

6.3 In no event shall the State be obligated to fund or reimburse any costs exceeding the lesser of:

- (a) the amount stated in Schedule A-1 for the State share of Project Costs; or
- (b) amounts described in the preceding paragraph (a), less any duplicative funding of the same Project costs from other State sources.

6.4 *Debt Financing by Sponsor.* Grant monies shall not be used to pay for interest, issuance costs or reserves in connection with the issuance of debt by Sponsor to fund the Project, but may repay principal indebtedness incurred to fund eligible Project costs.

7. *Payments to Sponsor.* For work performed by or through the Sponsor, NYSDOT will fund or reimburse eligible Project costs either during the progress of construction or following completion of construction in accordance with NYSDOT policy and procedures.

7.1 *Progress Payments.* Sponsor may be reimbursed in progress payments, for eligible Project costs incurred by Sponsor in conformity with Schedule A-1, upon submission of a voucher by Sponsor in a form acceptable to NYSDOT.

7.2 *Final Payment.* Final payment to sponsor shall be made upon the application of Sponsor to NYSDOT, on a basis of work accomplished, upon submission of vouchers to the State, the submission of a Project Completion Report (hereinafter defined) together with such data as NYSDOT deems necessary to assure compliance with this Agreement evidencing that the work of the Project is completed.

Upon the completion of all said work by Sponsor pursuant to this Agreement, a final statement of costs shall be submitted to the State within one hundred eighty (180) days. Upon receipt of the final statement of costs by the NYSDOT Commissioner, the NYSDOT Commissioner will conduct an audit of the Sponsor project account records within one hundred eighty (180) days to determine the resources applied or used by Sponsor in fulfilling the terms of this Agreement.

7.3 *Payment Certification.* Each payment request will contain a certification by Sponsor that payment requests do not duplicate reimbursement of Project costs being funded from other sources.

In the event that any payments are made by the State to the Sponsor for costs incurred by Sponsor, which are subsequently determined to be ineligible for reimbursement under this Agreement, State may retain an amount equal to any such excess payments from any monies then or which may become due and owing to Sponsor under the Agreement, or Sponsor shall repay such amounts to State within forty-five (45) days from the date Sponsor receives notice of such determination of ineligibility.

All costs submitted by Sponsor shall be in conformity with accounting procedures acceptable to NYSDOT and shall be subject to approval by NYSDOT Commissioner, and to audit by the NYSDOT Commissioner and the State Comptroller. All requests for reimbursement shall be accompanied by appropriate supporting documentation including, but not limited, to the following: Inspector's Reports with associated invoices and receipts, Engineer's Diary, and the Engineer's recommendation(s) for payment to the Contractor.

All costs charged to the project shall be properly supported by executed payrolls or abstracts thereof, time, material and accounts payable distribution records, invoices, contracts, vouchers and/or canceled checks evidencing in proper detail the nature and propriety of the charges.

8. *Compliance.* The Sponsor understands that funding is contingent upon the Sponsor's compliance with the applicable requirements of the "Local Projects Manual (LPM)" manual (available through NYSDOT's web site at <https://www.dot.ny.gov/plafap>), and as such may be amended from time to time.

9. *Supplemental Agreement or Supplemental Schedule A-1.* Supplemental Agreements or Supplemental Schedules A-1 may be entered by the parties, and must be approved in the manner required for a State contract. In the event Project cost estimates increase over the amounts provided for in Schedule A-1 or one or more supplemental Schedules A-1 as may hereafter be developed by the parties hereto or Eligible Project Costs in the Comprehensive List are increased by the legislature, no additional reimbursement shall be due to the Sponsor unless the parties enter into a Supplemental Agreement or Supplemental Schedule A-1 for reimbursement or additional Eligible Project Costs.

10. *Project Completion Report.* Sponsor shall 6 months from Project completion or final reimbursement by NYSDOT, whichever is earlier, submit a Project Completion Report to NYSDOT describing the sources and uses of all Project-related funds, including non-State funds, and the programmatic accomplishments of the Project.

11. *Records and Accounts.* Sponsor shall maintain accurate records and accounts of all financial transactions which show in detail all income and all expenditures, including but not limited to, payments for eligible Project costs. Said records shall include the amount of payment by the State, the amount of federal assistance if any received by the municipality for the project and all monies expended by the municipality for the project. Such records and accounts shall include, without limitation, property, personnel and financial records, cash receipts and disbursements journal and general subsidiary ledgers. All records and accounts shall be maintained in accordance with generally accepted accounting standards. All expenditures of the grant reimbursed monies shall be supported by invoices and/or other documentation sufficient to

establish that such monies have been used in accordance with the terms of this Agreement. The NYSDOT Commissioner, Comptroller of the State of New York and any other authorized representatives of the State of New York shall have the right to examine all records and accounts relating to Sponsor's financial transactions, including the expenditure of the grant and all other funds secured and services rendered for the benefit of Sponsor in connection with the Project. Sponsor shall maintain records relating to this Agreement for not less than thirty-six (36) years after the date of completion.

12. *Ethics.* No member of Sponsor's governing body, or any member of the Board of Directors or staff, nor any member of their families shall benefit financially either directly or indirectly from the grant unless such action is necessary for the accomplishment of the Project. In such event, Sponsor shall disclose such relationship to NYSDOT and shall obtain prior written approval therefore from NYSDOT.

13. *NYSDOT Review.* NYSDOT may review the Sponsor's performance of this agreement in such manner and at such times as the Commissioner shall determine, and such review may include field visits by NYSDOT representatives to the Project and/or the offices of Sponsor. Sponsor shall at all times make available its employees, records and facilities to authorized NYSDOT representatives in connection with any such review. Such review shall be for the purpose, among other things, of ascertaining the quality and quantity of Sponsor's performance of the Project, its use and operation.

14. *Failure to Diligently Progress Project or Loss of State or Federal Participation.* If NYSDOT determines that the Sponsor has failed to diligently progress the project, or in the event the Sponsor withdraws its approval of the project, or the Sponsor suspends or delays work on the Project such that it cannot be reasonably completed, or takes other action that results in the loss of state participation and/or federal participation, including the loss of State administration of Federal aid to the Sponsor, for the costs incurred pursuant to this agreement, the Sponsor shall refund to the State all reimbursements received from or through the State. The State may offset any other State aid due to the Sponsor by such amount and apply such offset to such repayment obligation of the Sponsor.

15. *Inspection and Audit.* Sponsor shall permit the authorized representative of NYSDOT and/or the State Comptroller to inspect and audit all books, records and accounts of Sponsor pertaining to the Project under this Agreement. Sponsor shall notify NYSDOT of any audit by any governmental agency of any projects, operations or reports of Sponsor within five (5) days of receiving information relating thereto.

16. *Term of Agreement.* The Project and Term are identified in Schedule(s) A executed herewith and incorporated herein or as subsequently identified in any duly executed and approved supplemental Schedule(s) A as of the date of such supplemental Schedule(s) A. This agreement shall only remain in effect so long as State aid funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a State budgetary hiatus will not by itself be construed to lapse this agreement, provided any necessary State appropriations or other funding authorizations therefor are eventually enacted.

17. *Contract Executory.* It is understood by and between the parties hereto that this Agreement shall be deemed executory only to the extent of the moneys available to the State and no liability on account thereof shall be incurred by the State beyond moneys available for the purpose hereof.

18. *Sponsor Liability; Indemnification.*

18.1 The Sponsor shall be responsible for all damage to person or property arising from any act or negligence performed by or on behalf of the Sponsor, its officers, agents, servants or employees, contractors, subcontractors or others in connection therewith. The Sponsor specifically agrees that its agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

18.2 To the fullest extent permitted by law, the Sponsor shall indemnify and save harmless the State for all damages and costs arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Sponsor its officers, agents, servants, employees contractors, subcontractors or others under this Agreement. Negligent performance of service within the meaning of this Article shall include, in addition to negligence founded upon tort, negligence based upon the Sponsor's failure to meet professional standards and resulting in obvious or patent errors in the progression of its work.

19. *Independent Contractor.* The officers and employees of the Sponsor, in accordance with the status of the Sponsor as an independent contractor, covenant and agree that they will conduct themselves consistent with such status, that they will neither hold themselves out as nor claim to be an officer or employee of the State by reason hereof, and that they will not by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or

employee of the State, including, but not limited to, Workers Compensation coverage, Unemployment Insurance benefits, Social Security or Retirement membership or credit.

20. *Insurance.* Sponsor agrees to procure and maintain without direct cost to the State except as noted during the pendency of this Agreement, insurance of the kinds and in amounts hereinafter provided by insurance companies authorized to do business in the State of New York or, if Sponsor is a municipality that self-insures, an endorsement for such self-insurance covering all operations under this Agreement whether performed by it or sub-contractors. Before commencing the work, Sponsor shall furnish to NYSDOT a certificate or certificates, in a form satisfactory to NYSDOT, showing compliance with this Article, which certificate or certificates, shall provide that such insurance shall not be changed or canceled until thirty (30) days written notice has been given to NYSDOT. Said insurance policies shall name the People of the State of New York, New York State, its officers, agents and employees as additional insureds thereunder. Upon written request by the State, the Sponsor shall furnish to the State a letter certifying that the State of New York, and other required insureds, have been named as additional insureds to such policy. The kinds and amounts of insurance required are as follows:

20.1 *Worker's Compensation and Disability Benefits.* Policy covering the obligations of Sponsor in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Worker's Compensation Law, and also by the provisions of Article 9 of the Worker's Compensation Law known as the Disability Benefits Law, and this Agreement shall be void and of no effect unless Sponsor procures such policy and maintains it until final acceptance of all work described herein;

20.2 *For construction and operating support projects, Comprehensive General Liability Insurance* insuring Sponsor and, as additional insureds, NYSDOT and its employees with respect to all operations under this Agreement by Sponsor, including such coverage any omissions and supervisory acts of the State and its employees. Policies of personal injury liability insurance of the types hereinafter specified, each with a combined single limit of \$1 million per occurrence/\$2 million aggregate for all damages arising out of personal injury, including death at any time resulting therefrom, sustained by one person in any one accident and, subject to that limit for each person, all damage arising out of bodily injury, including death at any time resulting therefrom, sustained by two or more persons in any one accident, damages arising out of injury to or destruction of property in any one accident and, subject to that limit per accident, for all damages arising out of injury to or destruction during the policy period.

20.3 *Automobile Liability and Property Damage Insurance.* Subject to the same required level of coverage set forth in §20.2 above, a policy covering the use in connection with the work covered by the Agreement of all owned, not owned and hired vehicles bearing or, under the circumstances under which they are being used required by New York State law to bear, license plates.

20.4 *Public Liability Insurance.* With respect to the operations performed, regular Contractor's Public Liability Insurance is provided for a limit of not less than \$2,000,000. Single Limit, Bodily Injury and/or Property Damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence.

20.5 *Protective Public Liability Insurance.* With respect to the operations performed, subcontractors provide regular Contractor's Protective Public Liability Insurance for a limit of not less than \$2,000,000 Single Limit, Bodily Injury and/or Property Damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence.

The insurance hereinbefore specified shall be carried until all work required to be performed under the terms of the Agreement is satisfactorily completed and formally accepted. Failure to carry or keep such insurance in force until all work is satisfactorily completed shall constitute a violation of the Agreement.

21. *Assignment or Other Disposition of Agreement.* The Sponsor agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement or any part thereof, or of its right, title or interest therein, or its power to execute such Agreement to any person, company or corporation without previous consent in writing of the Commissioner.

22. *Procurement Standards.* Sponsor will award contracts funded pursuant to this Agreement in accordance with procurement laws applicable to Sponsor and otherwise in accordance with the requirements of this Agreement.

23. *NYSDOT Obligations.* NYSDOT's responsibilities and obligations are specified set forth in this contract, and neither NYSDOT nor any of its officers or employees shall be responsible or liable, nor shall the Sponsor assert, make, or join in any claim or demand against NYSDOT, its officers or employees, for any damages or other relief based on any alleged failure of NYSDOT, its officers or employees, to undertake or perform any act, or for undertaking or performing any act, which is not specifically required or prohibited by this contract.

24. **E-Mail Provision Notice.**

1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:
 - (a) via certified or registered United States mail, return receipt requested;
 - (b) by facsimile transmission;
 - (c) by personal delivery;
 - (d) by expedited delivery service; or
 - (e) by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

State of New York Department of Transportation

Name: Keely Bannister
Title: Intermodal Transportation Specialist 2
Address: NYSDOT Aviation Bureau
50 Wolf Road P.O.D. 5-4
Albany, NY 12232
Telephone Number: 518-485-5008
Facsimile Number: 518-457-9779
E-Mail Address: keely.bannister@dot.ny.gov

Schenectady County

Name: Mr. Paul Sheldon
Title: Airport Commissioner
Address: 100 Kellar Avenue, Schenectady, NY 12306
Telephone Number: (518) 356-5340
Facsimile Number:
E-Mail Address: paul.sheldon@schenectadycounty.com

2. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
3. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

25. **Electronic Contract Payments.** Municipality/Sponsor shall provide complete and accurate supporting documentation of eligible local expenditures as required by this Agreement, NYSDOT and the State Comptroller. Following NYSDOT approval of such supporting documentation, payment for invoices submitted by the Municipality/Sponsor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices from the Statewide Financial System (SFS). The Municipality/Sponsor shall comply with the State Comptroller's procedures for all applicable State Aid to authorize electronic payments. Instructions and authorization forms are available on the New York State Comptroller's website at <https://www.osc.state.ny.us/state-vendors> or by email at spunl@osc.state.ny.us.

26. **Proposed Increase Clause.** Any change in this contract term, or change in scope of work not previously approved by OSC requires a contract amendment, and may require either a Contract Reporter Exemption, or a new procurement. The agency must submit a proposed amendment to OSC immediately for any such proposed change to this agreement. Scope changes requested of OSC after the fact may be denied.

27. **Compliance with Legal Requirements.** Municipality/Sponsor must comply with all applicable federal, state and local laws, rules and regulations, including but not limited to the following:

27.1 **New York State Executive Law Article 15-A, Participation by Minority Group members and Women with Respect to State Contracts and New York State Executive Law Article 17-B, Participation by Service-Disabled Veterans with Respect to State Contracts,** including requirements thereunder relating to equal employment opportunity, and utilization goals and

contracting opportunities for minority and women-owned business enterprises and service-disabled veteran owned business, without additional cost to NYSDOT.

27.1.1 EEO Policy Statement. Pursuant to 5 NYCRR §143.2, a Sponsor shall adopt an EEO policy if one is not previously adopted, as provided in Appendix B, and submit to NYSDOT a signed copy of Appendix B.

27.1.2 MWBE and SDVOB Goals. The Sponsor must comply with all MWBE and SDVOB requirements and goals stated within the provisions of Appendix B, titled, "Minority and Women-Owned Business Enterprises-Service Disabled Veteran Owned Businesses – Equal Employment Opportunity Policy Statement".

27.1.3 MWBE and SDVOB Guidance. Refer to the New York State Department of Transportation website and Appendix B for guidance related to MWBE and SDVOB goals at: <https://www.dot.ny.gov/main/business-center/civil-rights/>

Assigned MWBE and SDVOB goals must be included in the Sponsor's proposed contract documents when submitted for NYSDOT approval prior to project advertisement. Any requests for a reduction or waiver of the goals must be submitted at that time so that the correct goals are included in the project advertisement.

27.1.4 Good Faith Efforts. If a Sponsor fails to meet the MWBE or SDVOB requirements set forth in Appendix B, they must demonstrate Good Faith Efforts pursuant to 5 NYCRR §142.8.

27.1.5 MWBE and SDVOB Compliance Reports. The Sponsor shall require their consultants and contractors to submit electronic, monthly MWBE and SDVOB compliance reports via NYSDOT's Standard Civil Rights Reporting Software (EBO), on or before the 15th day of the immediately preceding month. The Sponsor must apply for access to EBO at the following website: <https://www.dot.ny.gov/dotapp/ebo>.

27.1.6 Failure to Comply. If the Sponsor fails to monitor and administer contracts in accordance with State requirements, the Sponsor will not be reimbursed for associated activities within the affected contracts. The Sponsor must ensure that any contract it awards under this Agreement has a Minority and Women-Owned Business Enterprise (MWBE) and a Service-Disabled Veteran Owned Business (SDVOB) Utilization Plan and complies with such plans. If, without prior written approval by NYSDOT, the Sponsor's contractors and subcontractors fail to complete work for the project as proposed in the MWBE and SDVOB Schedule of Utilization, NYSDOT at its discretion may (1) cancel, terminate or suspend this agreement or such portion of this agreement, or (2) assess liquidated damages in an amount of up to 20% of the portion of the Sponsor's contracts and subcontracts funded in whole or in part by this agreement, to which contract goals are established by NYSDOT.

27.1.7 Equal Employment Opportunity (EEO) Requirements. EEO goals (as provided in "CAPITAL PROJECT GUIDELINES"), EEO Policy Statement (as provided in "Appendix B – MWBE-SDVOB and EEO Policy Statements") and specifications (as provided in NYSDOT's Standard Specifications §102-11 *Equal Employment Opportunity Requirements*) must be included in the contract documents and project advertisement.
<https://www.dot.ny.gov/main/business-center/engineering/specifications/updated-standard-specifications-us>

27.1.8 EEO Monitoring and Reporting. EEO participation shall be monitored by the Sponsor as the project progresses. EEO participation shall be reported by the contractor through NYSDOT's civil rights reporting software, EBO.

27.2 New York State Environmental Law, Article 6, the State Smart Growth Public Infrastructure Policy Act, including providing true, timely and accurate information relating to the project to ensure compliance with the Act.

28. Reporting Requirements. The Municipality/Sponsor agrees to comply with and submit to NYSDOT in a timely manner all applicable reports required under the provisions of this Agreement and the Aviation Capital Grant Program Guidelines and in accordance with current Federal and State laws, rules, and regulations or as requested by NYSDOT. Reporting forms and schedules will be provided by NYSDOT as reporting requirements are identified.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials.

MUNICIPALITY/SPONSOR:

MUNICIPALITY/SPONSOR ATTORNEY:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

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

On this _____ day of _____, 20____ before me personally came _____ to me known, who, being by me duly sworn did depose and say that he/she resides at _____; that he/she is the _____ of the Municipal/Sponsor Corporation described in and which executed the above instrument; (except New York City) that it was executed by order of the _____ of said Municipal/Sponsor Corporation pursuant to a resolution which was duly adopted on _____ and which a certified copy is attached and made a part hereof; and that he/she signed his name thereto by like order.

Notary Public

APPROVED FOR NYSDOT:

**APPROVED AS TO FORM:
STATE OF NEW YORK ATTORNEY GENERAL**

By: _____
For Commissioner of Transportation

By: _____
Assistant Attorney General

Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

COMPTROLLER'S APPROVAL:

Date: _____

By: _____
For the New York State Comptroller
Pursuant to State Finance Law §112

Aviation Project Funding Agreement - Schedule A-1

OSC Contract # _K007575

Project Commencement Date 10/20/23

Project Completion Date: 10/19/28

AGREEMENT PURPOSE MAIN Agreement SUPPLEMENTAL Agreement or Schedule

AGREEMENT COVERS (as shown in tables below):

Grant Agreement

PROJECT TYPE:

Capital Improvement

PROJECT IDENTIFICATION NUMBER: 1905.05

This project will include the procurement of Snow Removal Equipment (SRE) for Schenectady County Airport. The specific SRE to be procured will be a Dual Engine High Speed Snowblower Vehicle.

The sponsor attests that the above Project has a useful service life of 10 years.

Estimated Expenditure Activities (Planning, Design, etc) as per original submitted application

Location: Schenectady County Airport

Owner/Operating and Maintenance Responsibility: Schenectady County

Type of Airport Organization:

- Municipality Public Authority Not-for-Profit Corporation Public Benefit Corporation
 Business Corporation Partnership Proprietorship _____

B. SUMMARY OF ELIGIBLE PROGRAM COSTS

AIR'99 FUNDING		OTHER NECESSARY FUNDING	TOTAL
GRANT	LOCAL SHARE		
\$861,195.00	\$95,689.00	\$ 0.00	\$956,884.00

Project is: (check which applies) part of an approved airport layout plan, OR
 consistent with an approved airport layout plan

SCHEDULE B: Phases, Sub-phase/Tasks, and Allocation of Responsibility

Instructions: Identify the responsibility for each applicable Sub-phase task by entering X in either the *NYSDOT* column to allocate the task to State labor forces or a State Contract, or in the *Sponsor* column indicating non-State labor forces or a locally administered contract.

A1. Preliminary Engineering ("PE") Phase

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT</u>	<u>Sponsor</u>
1. <u>Scoping</u> : Prepare and distribute all required project reports, including an Expanded Project Proposal (EPP) or Scoping Summary Memorandum (SSM), as appropriate.	<input type="checkbox"/>	<input type="checkbox"/>
2. Perform data collection and analysis for design, including traffic counts and forecasts, accident data, Smart Growth checklist, land use and development analysis and forecasts.	<input type="checkbox"/>	<input type="checkbox"/>
3. Smart Growth Attestation (NYSDOT ONLY).	<input type="checkbox"/>	<input type="checkbox"/>
4. <u>Preliminary Design</u> : Prepare and distribute Design Report/Design Approval Document (DAD), including environmental analysis/assessments, and other reports required to demonstrate the completion of specific design sub-phases or tasks and/or to secure the approval/authorization to proceed.	<input type="checkbox"/>	<input type="checkbox"/>
5. Review and Circulate all project reports, plans, and other project data to obtain the necessary review, approval, and/or other input and actions required of other NYSDOT units and external agencies.	<input type="checkbox"/>	<input type="checkbox"/>
6. Obtain aerial photography and photogrammetric mapping.	<input type="checkbox"/>	<input type="checkbox"/>
7. Perform all surveys for mapping and design.	<input type="checkbox"/>	<input type="checkbox"/>
8. <u>Detailed Design</u> : Perform all project design, including preparation of plan sheets, cross-sections, profiles, detail sheets, specialty items, shop drawings, and other items required in accordance with the Highway Design Manual, including all Highway Design, including pavement evaluations, including taking and analyzing cores; design of Pavement mixes and applications procedures; preparation of bridge site data package, if necessary, and all Structural Design, including hydraulic analyses, if necessary, foundation design, and all design of highway appurtenances and systems [e.g., Signals, Intelligent Transportation System (ITS) facilities], and maintenance protection of traffic plans. Federal Railroad Administration (FRA) criteria will apply to rail work.	<input type="checkbox"/>	<input type="checkbox"/>
9. Perform landscape design (including erosion control).	<input type="checkbox"/>	<input type="checkbox"/>
10. Design environmental mitigation, where appropriate, in connection with: Noise readings, projections, air quality monitoring, emissions projections, hazardous waste, asbestos, determination of need of cultural resources survey.	<input type="checkbox"/>	<input type="checkbox"/>
11. Prepare demolition contracts, utility relocation plans/contracts, and any other plans and/or contract documents required to advance, separate, any portions of the project which may be more appropriately progressed separately and independently.	<input type="checkbox"/>	<input type="checkbox"/>
12. Compile PS&E package, including all plans, proposals, specifications, estimates, notes, special contract requirements, and any other contract documents necessary to advance the project to construction.	<input type="checkbox"/>	<input type="checkbox"/>
13. Conduct any required soils and other geological investigations.	<input type="checkbox"/>	<input type="checkbox"/>

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT</u>	<u>Sponsor</u>
14. Obtain utility information, including identifying the locations and types of utilities within the project area, the ownership of these utilities, and prepare utility relocations plans and agreements, including completion of Form HC-140, titled Preliminary Utility Work Agreement.	<input type="checkbox"/>	<input type="checkbox"/>
15. Determine the need and apply for any required permits, including U.S. Coast Guard, U.S. Army Corps of Engineers, Wetlands (including identification and delineation of wetlands), SPDES, NYSDOT Highway Work Permits, and any permits or other approvals required to comply with local laws, such as zoning ordinances, historic districts, tax assessment and special districts.	<input type="checkbox"/>	<input type="checkbox"/>
16. Prepare and execute any required agreements, including:	<input type="checkbox"/>	<input type="checkbox"/>
- Railroad force account		
- Maintenance agreements for sidewalks, lighting, signals, betterments		
- Betterment Agreements		
- Utility Work Agreements for any necessary Utility Relocations of Privately owned Utilities		
17. Provide overall supervision/oversight of design to assure conformity with Federal and State design standards or conditions, including final approval of PS&E (Contract Bid Documents) by NYSDOT.	<input type="checkbox"/>	<input type="checkbox"/>

A2. Right-of-Way (ROW) Incidentals

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT</u>	<u>Sponsor</u>
1. Prepare ARM or other mapping, showing preliminary taking lines.	<input type="checkbox"/>	<input type="checkbox"/>
2. ROW mapping and any necessary ROW relocation plans.	<input type="checkbox"/>	<input type="checkbox"/>
3. Obtain abstracts of title and certify those having an interest in ROW to be acquired.	<input type="checkbox"/>	<input type="checkbox"/>
4. Secure Appraisals.	<input type="checkbox"/>	<input type="checkbox"/>
5. Perform Appraisal Review and establish an amount representing just compensation.	<input type="checkbox"/>	<input type="checkbox"/>
6. Determination of exemption from public hearing that is otherwise required by the Eminent Domain Procedure Law, including <i>de minimis</i> determination, as may be applicable. If NYSDOT is responsible for acquiring the right-of-way, this determination may be performed by NYSDOT only if NYSDOT is responsible for the Preliminary Engineering Phase under Phase A1 of this Schedule B.	<input type="checkbox"/>	<input type="checkbox"/>
7. Conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedures Law, including the provision of stenographic services, preparation and distribution of transcripts, and response to issues raised at such meetings.	<input type="checkbox"/>	<input type="checkbox"/>

B. Right-of-Way (ROW) Acquisition

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Perform all Right-of-Way (ROW) Acquisition work, including negotiations with property owners, acquisition of properties and accompanying legal work, payments to and/or deposits on behalf of property owners; Prepare, publish, and pay for any required legal notices; and all other actions necessary to secure title to, possession of, and entry to required properties. If NYSDOT is to acquire property, including property described as an uneconomic remainder, on behalf of the Municipality/Sponsor, the Municipality/Sponsor agrees to accept and take title to any and all permanent property rights so acquired which form a part of the completed Project.	<input type="checkbox"/>	<input type="checkbox"/>
2. Provide required relocation assistance, including payment of moving expenses, replacement supplements, mortgage interest differentials, closing costs, mortgage prepayment fees.	<input type="checkbox"/>	<input type="checkbox"/>
3. Conduct eminent domain proceedings, court and any other legal actions required to acquire properties.	<input type="checkbox"/>	<input type="checkbox"/>
4. Monitor all ROW Acquisition work and activities, including review and processing of payments of property owners.	<input type="checkbox"/>	<input type="checkbox"/>
5. Provide official certification that all right-of-way required for the construction has been acquired in compliance with applicable Federal, State or Local requirements and is available for use and/or making projections of when such property(ies) will be available if such properties are not in hand at the time of contract award.	<input type="checkbox"/>	<input type="checkbox"/>
6. Conduct any property management activities, including establishment and collecting rents, building maintenance and repairs, and any other activities necessary to sustain properties and/or tenants until the sites are vacated, demolished, or otherwise used for the construction project.	<input type="checkbox"/>	<input type="checkbox"/>
7. Subsequent to completion of the Project, conduct ongoing property management activities in a manner consistent with applicable Federal, State and Local requirements including, as applicable, the development of any ancillary uses, establishment and collection of rent, property maintenance and any other related activities.	<input type="checkbox"/>	<input type="checkbox"/>

C. Construction, Construction Support (C/S) and Construction Inspection (C/I) Phase

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Advertise contract lettings and distribute contract documents to prospective bidders.	<input type="checkbox"/>	<input type="checkbox"/>
2. Conduct all contract lettings, including receipt, opening, and analysis of bids, evaluation/certification of bidders, notification of rejected bids/bidders, and awarding of the construction contract(s).	<input type="checkbox"/>	<input type="checkbox"/>
3. Receive and process bid deposits and verify any bidder's insurance and bond coverage that may be required.	<input type="checkbox"/>	<input type="checkbox"/>
4. Compile and submit Contract Award Documentation Package.	<input type="checkbox"/>	<input type="checkbox"/>
5. Review/approve any proposed subcontractors, vendors, or suppliers.	<input type="checkbox"/>	<input type="checkbox"/>

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT</u>	<u>Sponsor</u>
6. Conduct and control all construction activities in accordance with the plans and proposal for the project. Maintain accurate, up-to-date project records and files, including all diaries and logs, to provide a detailed chronology of project construction activities. Procure or provide all materials, supplies and labor for the performance of the work on the project, and insure that the proper materials, equipment, human resources, methods and procedures are used.	<input type="checkbox"/>	<input type="checkbox"/>
7a. For non-NHS or non-State Highway System Projects: Test and accept materials, including review and approval for any requests for substitutions.	<input type="checkbox"/>	<input type="checkbox"/>
7b. For NHS or State Highway System Projects: Inspection and approval of materials such as bituminous concrete, Portland cement concrete, structural steel, concrete structural elements and/or their components to be used in a federal aid project will be performed by, and according to the requirements of NYSDOT. The Municipality/Sponsor shall make or require provision for such materials inspection in any contract or subcontract that includes materials that are subject to inspection and approval in accordance with the applicable NYSDOT design and construction standards associated with the federal aid project.	<input type="checkbox"/>	<input type="checkbox"/>
7c. For projects that fall under both 7a and 7b above, check boxes for each.		
6. Design and/or re-design the project or any portion of the project that may be required because of conditions encountered during construction.	<input type="checkbox"/>	<input type="checkbox"/>
9. Administer construction contract, including the review and approval of all contractor requests for payment, orders-on-contract, force account work, extensions of time, exceptions to the plans and specifications, substitutions or equivalents, and special specifications.	<input type="checkbox"/>	<input type="checkbox"/>
10. Review and approve all shop drawings, fabrication details, and other details of structural work.	<input type="checkbox"/>	<input type="checkbox"/>
11. Administer all construction contract claims, disputes or litigation.	<input type="checkbox"/>	<input type="checkbox"/>
12. Perform final inspection of the complete work to determine and verify final quantities, prices, and compliance with plans specifications, and such other construction engineering supervision and inspection work necessary to conform to Municipal, State and FHWA requirements, including the final acceptance of the project by NYSDOT.	<input type="checkbox"/>	<input type="checkbox"/>
13. Pursuant to Federal Regulation 49 CFR 18.42(e)(1) The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.	<input type="checkbox"/>	<input type="checkbox"/>

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

October 2019

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The

Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and

improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State

or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: ona@esd.ny.gov

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov

<https://ny.newnyccontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

Page 7

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

October 2019

APPENDIX A-1 SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)
(To be included in all contracts)

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, age, color, sex or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a) Withholding of payments to the contractor under the contract until the contractor complies; and/or
 - b) Cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontractor procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES-SERVICE DISABLED VETERAN OWNED BUSINESSES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

M/WBE, SDVOB, AND EEO POLICY STATEMENT

I, _____, the representative for Schenectady County adopted, or agree to adopt, the following policies with respect to the project being developed or services rendered at Schenectady County Airport.

M/WBE/SDVOB

This organization will and will cause its contractors and subcontractors to take good-faith actions to achieve the M/WBE/SDVOB contract participation goals set by the State for that area in which the State-funded project is located by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs, WBEs, and SDVOBs, including solicitations to M/WBE and SDVOB contractor associations.
- (2) Obtain a list of State-certified M/WBEs from <https://ny.newnyccontracts.com/> and solicit bids from them directly.
- (3) Obtain a list of State certified SDVOBs from <https://online.ogs.ny.gov/SDVOB/search> and solicit bids from them directly.
- (4) Ensure that plans, specifications, requests for proposals, and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs and SDVOBs.
- (5) Where feasible, divide the work into smaller portions to enhanced participation by M/WBEs/SDVOBs and encourage joint ventures and other partnerships among M/WBE/SDVOBs contractors to enhance their participation.
- (6) Document and maintain records of bid solicitation, including those to M/WBEs/SDVOBs and the results thereof. This organization will also maintain records of actions that its subcontractors have taken toward meeting M/WBE/SDVOB contract participation goals.
- (7) Ensure that progress payments to M/WBEs/SDVOBs are made on a timely basis so that undue financial hardship is avoided and that, if legally permissible, bonding and other credit requirements are waived, appropriate alternatives developed to encourage M/WBE/SDVOB participation.

EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its workforce on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, disability, or marital status.

(c) At the request of the Sponsor, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) This organization shall comply with the provisions of the Human Rights Law, all other State, and Federal statutory and constitutional non-discrimination provisions. This organization and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Agreed to this _____ day of _____, 20 _____

By _____

Print: _____ Title: _____

(10/2023)

APPENDIX B

_____ (Name of Designated Liaison) is designated as this organization's Minority and Women-Owned Business Enterprise Liaison and Service-Disabled Veteran Owned Business Liaison responsible for administering M/WBE/SDVOB-EEO program.

The Municipality/Sponsor/Grantee agrees that the Standard M/WBE and/or SDVOB Contract Goals for projects let and funded (in whole or in part) with proceeds of this Agreement (Contract # K007575) are provided below.

STANDARD CONTRACT GOALS

CATEGORY/CONTRACT TYPE	MBE	WBE	SDVOB
C: Commodities	9.00%	17.00%	6.00%
CC: Construction Consultants (Architectural/Engineering)	20.00%	10.00%	6.00%
CN: Construction	10.00%	15.00%	6.00%
SC: Services/Consultants (Non-Architectural/Engineering)	7.00%	12.00%	6.00%

These Standard Contract Goals are based on the New York State Department of Transportation's (NYSDOT's) Agency M/WBE and SDVOB Goal Plan as a result of programmatic analysis. The plans are available at: FY22-23 M/WBE Goal Plan and FY2021 SDVOB Goal Plan. In furtherance of such goals, the Municipality/Sponsor/Grantee is also required to consider the following statutory factors in all related contracts executed by the Sponsor/Municipality/Grantee:

- (1) the contract and subcontract scope(s) of work,
- (2) the potential subcontract opportunities available in the prime contract,
- (3) the relevant availability data contained within the disparity study with respect to the scope of the contract and potential subcontracting opportunities,
- (4) the number and types of certified minority-owned and women-owned business enterprises (M/WBE) found in the directory of certified minority-owned and women-owned businesses available to perform the related contract work and the number and types of certified service-disabled veteran-owned businesses (SDVOB) found in the SDVOB directory available to perform the related contract work,
- (5) the geographic location of the contract performance,
- (6) the extent to which geography is material to the performance of the contract,
- (7) the ability of certified M/WBEs and SDVOBs located outside of the geographic location of contract performance, notwithstanding the regional location of the certified enterprise, to perform on the Municipality/Sponsor/Grantee's contract,
- (8) the total dollar value of the work required by the Municipality's/Sponsor's/Grantee's contract in relation to the dollar value of the subcontracting opportunities; and
- (9) the relationship of the monetary size and term of the Municipality's/Sponsor's/Grantee's contract to the monetary size and term of the project for which the contract is awarded (See 5 NYCRR 142.2 and 9 CRR-NY 252.2(h)).

Pre-Advertisement: As a result of Municipality's/Sponsor's/Grantee's analysis of the statutory factors in relation to a contract's work scope and circumstances, if the Municipality/Sponsor/Grantee believes a non-standard goal is appropriate and supportable, the Municipality/Sponsor/Grantee may obtain NYSDOT approval by submitting a M/WBE and/or SDVOB Pre-Advertisement Goal Modification Request, with justification, prior to public advertisement of the contract.

Pre-Award: If the Municipality/Sponsor/Grantee receives proposals or bids that do not provide commitments that meet or exceed the advertised goals, the Municipality/Sponsor/Grantee must obtain NYSDOT approval by

(10/2023)

APPENDIX B

submitting a M/WBE and/or SDVOB Waiver Request *demonstrating the Contractor's Good Faith Efforts to meet the goals, along with supporting justification, prior to awarding the contract.*

Post Award: If any consultant/contractor fails to attain its M/WBE and/or SDVOB commitment on a contract, the Municipality/Sponsor/Grantee must obtain NYSDOT approval by submitting a M/WBE and/or SDVOB Waiver Request, *demonstrating Good Faith Efforts to meet the goals, along with supporting justification before NYSDOT will distribute final payment of grant proceeds.*

All forms referenced above are available at: <https://www.dot.ny.gov/main/business-center/civil-rights/>. Nothing stated within this or associated document(s) guarantees NYSDOT's approval of a goal modification or goal waiver.

Signature: _____

Title: _____

Name: _____

Date: _____

STATE ENVIRONMENTAL QUALITY REVIEW

In accordance with the rules, regulations and procedures adopted by

Schenectady County

(or 6NYCRR Part 617 where the Municipal Corporation has not adopted such rules, regulations and procedures) pursuant to the intent of the State Environmental Quality Review Act, the project described below is classified as a:

CHECK ONE

- Type I Action - with possible significant effect (NEPA or SEQR DEIS, FEIS and SEQR Record of Decision have been prepared).
- Type I Action - with no significant effect (Environmental Assessment Form or Environmental Assessment and Negative Declaration have been prepared and filed).
- Unlisted Action - with possible significant effect (NEPA or SEQR DEIS, FEIS and SEQR Record of Decision have been prepared).
- Unlisted Action - with no significant effect (Environmental Assessment Form or Environmental Assessment and Negative Declaration have been prepared and filed).
- Type II Action
- Ministerial Act
- Exempt Act

PROJECT DESCRIPTION

This project will include the procurement of Snow Removal Equipment (SRE) for Schenectady County Airport. The specific SRE to be procured will be a Dual Engine High Speed Snowblower Vehicle.

Authorized Signature

Title

Date

LEGISLATIVE INITIATIVE FORM

Date: 12/1/2023
Reference: Public Facilities, Transportation and Infrastructure
Dual Reference: Ways and Means
Initiative: PFTI 24

Title of Proposed Resolution:

A RESOLUTION REGARDING THE ACCEPTANCE OF MONIES FROM THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS AT THE SCHENECTADY COUNTY AIRPORT

Purpose and General Idea:

Provides Authorization to Accept Funding from the NYS Department of Transportation Aviation Division for the Relocation of a Non-Directional Beacon and the Expansion of Sewer and Water Facilities

Summary of Specific Provisions:

Authorizes acceptance of funding from the NYS Department of Transportation Aviation Division in the amount of \$1,650,000. This funding was reprogrammed from a prior grant application that the County was awarded in 2016, but never accepted due to a lack of financial commitment from a partner at the County Airport. This new funding would relocate the Non-Directional Beacon that is used for flight training by the 109th Air National Guard.

Effects Upon Present Law:

The Schenectady County Department of Finance provides the following amendment to the County’s 2023 Capital Budget establishing a project to extend the sewer line along Rudy Chase Drive at the Schenectady County Airport, as well as relocate the Non-Directional Beacon. This project will be 90% funded from a NYS DOT aviation grant and 10% from local County share.

CAPITAL BUDGET

Establish Capital Project 5610230090 - Sewer Line Extension and NDB Relocation

Increase Revenue String By:

H33333.3592	Airport Capital Projects – NYS DOT	<u>\$1,485,000</u>
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Increase Revenue String By:

H93333.5710	Serial Bonds	<u>\$ 165,000</u>
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Increase Appropriation Code By:

H545610.401000 Capital – Aviation Contractual

\$1,650,000

I recommend that this budget amendment be presented to the County Legislature for consideration.

Justification:

Paul Sheldon, Director of Engineering and Public Works, and Peter Knutson indicate, there are 90% and 10% matches from the State and County, respectively. In addition, the funding would extend a new public sanitary sewer line along Rudy Chase Drive which would allow for future expansions and hangar constructions at the airport.

Sponsor: Legislator Patierne

Co-Sponsor:

COUNTY OF SCHENECTADY

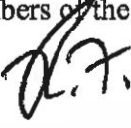


RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Paul Sheldon, Director of Engineering and Public Works
Peter Knutson, Director of the Bureau of Engineering
Jaclyn Falotico, Commissioner of Finance

Date: December 1, 2023

Re: Authorization to Accept Funding from the NYS Department of Transportation Aviation Division for the Relocation of a Non-Directional Beacon and the Expansion of Sewer and Water Facilities

Attached are memoranda from Paul Sheldon, Director of Engineering and Public Works, and Peter Knutson, Director of the Bureau of Engineering, requesting authorization to accept funding from the NYS Department of Transportation Aviation Division in the amount of \$1,650,000. This funding was reprogrammed from a prior grant application that the County was awarded in 2016, but never accepted due to a lack of financial commitment from a partner at the County Airport.

This new funding would relocate the Non-Directional Beacon that is used for flight trainings by the 109th Air National Guard. In addition, the funding would extend a new public sanitary sewer line along Rudy Chase Drive which would allow for future expansions and hangar constructions at the airport.

As Mr. Knutson indicates, there are 90% and 10% matches from the State and County, respectively.

The attached memorandum from Jaclyn Falotico, Commissioner of Finance, details the necessary budget amendment.

I recommend your approval.

**Schenectady County
Inter-Department Memorandum**

DATE: November 21, 2023
TO: Rory Fiuman, County Manager
FROM: Paul Sheldon, P.E., Director of Public Works *PS*
COPIES: File
SUBJECT: NYSDOT Aviation Grant 1905.03 – Reprogram of Funds

I have attached a memorandum from Peter Knutson, Director of Engineering, regarding a \$1,650,000.00 grant from the New York State Department of Transportation (NYSDOT) Aviation Division to relocate the existing non-directional beacon (NDB) as well as extend a new public sanitary sewer line along Rudy Chase Drive approximately 2000 feet to serve future hangar expansion towards the north end of the Airport.

This grant was reprogrammed from an earlier grant application which would have relocated the existing non-directional beacon and provided general site improvements for the construction of a new Fixed Based Operator building which never materialized.

I recommend acceptance of the grant from NYSDOT.

COUNTY OF SCHENECTADY

Memorandum

DATE: November 21st, 2023

TO: Paul Sheldon, Commissioner of Public Works

FROM: Peter Knutson, Senior Civil Engineer

COPY: S. Harris

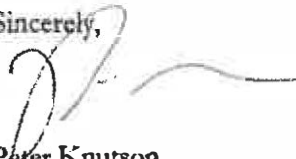
SUBJECT: NYSDOT Aviation Grant 1905.03 Reprogram of Funds

The County was offered in 2016 a grant from the New York State Department of Transportation (NYSDOT) Aviation Division for the extension of a sewer and water facilities, along Tower Road at the Schenectady County Airport, the relocation of a Non-Directional Beacon (NDB) used for flight training for the 109th Air National Guard Wing to train for Antarctica missions, and general site improvements for the building of a new Fixed Based Operator (FBO) building with a matching fund commitment from Richmor Aviation.

After years of working with Richmor to have them develop the new FBO, they were unable to commit to their \$3 million in matching funds for the grant. The Engineering and Planning Departments never felt confident in accepting our portion of the grant without those assurances. The original grant expired without our accepting of funds in December of 2021. But before its expiration, I reached out to NYSDOT and requested to reprogram the funds to keep the relocation of the NDB, and to instead allow us to expand sewer and water facilities north along Rudy Chase Drive ending on the northside of the Empire State Air Museum (ESAM). This new expansion would allow the County to have the infrastructure in place to help in leasing and advertising for expansions and hanger construction on an approximate 15-acre parcel of land we will be prepping using an existing awarded Bipartisan Infrastructure Law Funding awarded for airport use only.

NYSDOT has approved the reprogramming of these funds for the relocation of the NDB, and the sewer expansions along Rudy Chase Drive. The Engineering Department requests the legislature approve and enter into the agreement with NYSDOT. This grant agreement is a 90% state funding and 10% local match, with a total awarded amount of \$1,650,000.00 making the local share \$165,000.00.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Peter Knutson', with a long horizontal flourish extending to the right.

Peter Knutson
Director of the Bureau of Engineering

County of Schenectady
620 State Street, 3rd Floor,
Schenectady, N. Y. 12305
(518) 388-4260
(518) 388-4248 Fax



Memo

TO: Rory Fluman, County Manager
FROM: Jaclyn Falotico, Commissioner of Finance *rf*
DATE: November 28, 2023
SUBJECT: 2023 Capital Budget Amendment – Aviation – Sewer Line Extension and NDB Relocation

The Schenectady County Department of Finance provides the following amendment to the County’s 2023 Capital Budget establishing a project to extend the sewer line along Rudy Chase Drive at the Schenectady County Airport, as well as relocate the Non-Directional Beacon. This project will be 90% funded from a NYS DOT aviation grant and 10% from local County share.

CAPITAL BUDGET

Establish Capital Project 5610230090 - Sewer Line Extension and NDB Relocation

Increase Revenue String By:

H33333.3592 Airport Capital Projects – NYS DOT \$1,485,000

Increase Revenue String By:

H93333.5710 Serial Bonds \$ 165,000

Increase Appropriation Code By:

H545610.401000 Capital – Aviation Contractual \$1,650,000

I recommend that this budget amendment be presented to the County Legislature for consideration.

AVIATION PROJECT FUNDING AGREEMENT

This Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State");

and

the County of Schenectady (the "Municipality/Sponsor") with its office at Schenectady, NY

This agreement identifies the party responsible for administration, establishes the method and provision for funding and implementation of an aviation project pursuant to appropriation as such project is more fully described by Schedule A-1 annexed to this agreement or one or more duly executed and approved Supplemental Schedules to this agreement. The project shall be identified for the purposes of this agreement as Infrastructure in Support of Business Aviation Complex at Schenectady County Airport (as more specifically described in Schedule A-1, or supplemental Schedule A's, the "Project").

WITNESSETH:

WHEREAS, Section 14-l of the Transportation Law authorizes the NYSDOT Commissioner to implement the Airport Improvement and Revitalization Program; and

WHEREAS, pursuant to authorizations and appropriations therefore, NYSDOT and the Sponsor are desirous of progressing the Project; and

WHEREAS, the Sponsor attests that the Project has a useful service life as stated on the Schedule A-1 included herein; and

WHEREAS, the Sponsor will administer the Project and submit to NYSDOT for funding of eligible Project costs pursuant to this Agreement; and

WHEREAS, the Legislative or governing Body of the Sponsor by Resolution No. _____ adopted at meeting held on _____ approved the Project and the terms and provisions of this Agreement and has further authorized the _____ of the Sponsor to execute this Agreement on behalf of this Sponsor (copy of such Resolution is attached to and made a part of this Agreement); and

WHEREAS, the Sponsor is not a sectarian institution,

NOW, THEREFORE, the parties agree as follows:

1. *Documents Forming this Agreement.* The agreement consists of the following:

- Agreement: This document titled "Aviation Project Funding Agreement";
- Schedule A-1: Description of Project and Funding;
- Schedule B: Phases, Sub-phase/Tasks, and Allocation of Responsibility;
- Appendix A: Standard Clauses for New York State Contracts;
- Appendix A-1: Supplemental Title VI Provisions (Civil Rights Act);
- Appendix B - Minority and Women-Owned Business Enterprises (M/WBE) – Service-Disabled Veteran Owned Businesses (SDVOB) - Equal Employment Opportunity (EEO) Policy Statement

- Resolution(s) – duly adopted municipal or, as applicable, corporate resolution(s) authorizing the appropriate official of the Sponsor to execute this Agreement on behalf of the Sponsor and appropriating the funding required therefore.

2. **General Description of Work.** The Sponsor shall procure and provide all services, materials and equipment necessary to complete the Project as more particularly described in Schedule A-1 and Scope of Work described in Schedule B.

3. **Maintenance.** Upon completion and acceptance of the Project Facilities by Sponsor, Sponsor shall certify in writing to the NYSDOT Commissioner that the Project Facilities have been completed. Upon its completion, Sponsor will operate and maintain the Project facilities as well as ancillary facilities useful or necessary to the function of said facilities, at its own expense in accordance with the requirements of the NYSDOT Commissioner for the period of time corresponding to the period of useful life for such project as determined by Section 61 of the State Finance Law. If the Sponsor intends to have the project facilities maintained by another party, any necessary maintenance contract shall be executed and submitted to NYSDOT before construction commences.

4. **Disposition of Project Facilities.** Sponsor agrees, that during the period of time during which Title to the Project Facilities paid for by the State is held by the State or in any event if funding of the State's share is from the proceeds of bonds or other obligations issued by the State or any of its public benefit corporations, such Project Facilities shall not be sold, rendered unusable, relinquished, discontinued or disposed of by Sponsor without the express written consent of the NYSDOT Commissioner having first been obtained. In the event of such approved disposition Sponsor shall either cause the purchaser or transferee to assume Sponsor's continuing obligations under this Agreement, or shall reimburse NYSDOT for the pro-rata share of the grant over the remaining useful life of the Project.

5. **Method of Performance of Work.** Sponsor agrees to undertake or cause to be undertaken and to proceed expeditiously with and complete the project as approved by the NYSDOT Commissioner and as described in the Scope of Work, and to complete or cause to be completed said work within the time limits specified in said Scope of Work. The work shall be performed by Sponsor's own forces or by contract or contracts entered into by the Sponsor in accordance with applicable law and the requirements of this Agreement. Sponsor agrees to obtain or cause to be obtained all approvals, permits and licenses necessary to progress the work, and also agrees to comply or cause to be complied with all applicable Federal, State and Local Laws which in any way impact work to be accomplished by the project.

6. **Funding of Project Costs.** State financial assistance hereunder shall be in the form of a grant as more specifically described in Schedule A-1. Sponsor shall provide its share of the cost of the Project, if any. Sponsor shall make reasonable efforts to secure federal assistance, if any, for the project.

In the event that federal assistance which was not included in the calculation of the state financial assistance becomes available to the Sponsor, the amount of the state financial assistance shall be recalculated by reducing the amount of the state financial assistance by the amount of such federal assistance, and the Sponsor shall pay to the state the amount by which the state payment actually made exceeds the state financial assistance determined by the recalculation, if any.

6.1 **Limits of Funding.** Subject to the terms of the appropriation, NYSDOT agrees to make available funds up to the amount identified as State Aid in Schedule A-1 for eligible Project costs incurred by the Sponsor in the performance of the Project, as the Project and the funding therefore is more fully described in Schedules A-1 and B. Project Costs in excess of State funds available for the work shall be the responsibility of Sponsor. Prior to start of construction, Sponsor shall certify the source and availability of funds for Project Costs which are in excess of State funds being made available under this Agreement. If the Sponsor loses funding eligibility, the State shall not be liable for any Project Costs whatsoever.

6.2 **Eligible Project Costs.** NYSDOT will fund eligible Project costs incurred by the Sponsor in connection with the work covered by this Agreement. Eligible costs shall include, but not be limited to, costs of acquisition, construction, repair, reconstruction, renovation and such other costs associated with the Project as are approved by NYSDOT as reasonable and necessary in the performance of the Project. Eligible costs shall also include salaries and wages to employees of the Sponsor who are engaged in carrying out the Project, fees to consultants and professionals retained by the Sponsor for planning and performing the Project.

6.3 In no event shall the State be obligated to fund or reimburse any costs exceeding the lesser of:

- (a) the amount stated in Schedule A-1 for the State share of Project Costs; or
- (b) amounts described in the preceding paragraph (a), less any duplicative funding of the same Project costs from other State sources.

6.4 Debt Financing by Sponsor. Grant monies shall not be used to pay for interest, issuance costs or reserves in connection with the issuance of debt by Sponsor to fund the Project, but may repay principal indebtedness incurred to fund eligible Project costs.

7. Payments to Sponsor. For work performed by or through the Sponsor, NYSDOT will fund or reimburse eligible Project costs either during the progress of construction or following completion of construction in accordance with NYSDOT policy and procedures.

7.1 Progress Payments. Sponsor may be reimbursed in progress payments, for eligible Project costs incurred by Sponsor in conformity with Schedule A-1, upon submission of a voucher by Sponsor in a form acceptable to NYSDOT.

7.2 Final Payment. Final payment to sponsor shall be made upon the application of Sponsor to NYSDOT, on a basis of work accomplished, upon submission of vouchers to the State, the submission of a Project Completion Report (hereinafter defined) together with such data as NYSDOT deems necessary to assure compliance with this Agreement evidencing that the work of the Project is completed.

Upon the completion of all said work by Sponsor pursuant to this Agreement, a final statement of costs shall be submitted to the State within one hundred eighty (180) days. Upon receipt of the final statement of costs by the NYSDOT Commissioner, the NYSDOT Commissioner will conduct an audit of the Sponsor project account records within one hundred eighty (180) days to determine the resources applied or used by Sponsor in fulfilling the terms of this Agreement.

7.3 Payment Certification. Each payment request will contain a certification by Sponsor that payment requests do not duplicate reimbursement of Project costs being funded from other sources.

In the event that any payments are made by the State to the Sponsor for costs incurred by Sponsor, which are subsequently determined to be ineligible for reimbursement under this Agreement, State may retain an amount equal to any such excess payments from any monies then or which may become due and owing to Sponsor under the Agreement, or Sponsor shall repay such amounts to State within forty-five (45) days from the date Sponsor receives notice of such determination of ineligibility.

All costs submitted by Sponsor shall be in conformity with accounting procedures acceptable to NYSDOT and shall be subject to approval by NYSDOT Commissioner, and to audit by the NYSDOT Commissioner and the State Comptroller. All requests for reimbursement shall be accompanied by appropriate supporting documentation including, but not limited, to the following: Inspector's Reports with associated invoices and receipts, Engineer's Diary, and the Engineer's recommendation(s) for payment to the Contractor.

All costs charged to the project shall be properly supported by executed payrolls or abstracts thereof, time, material and accounts payable distribution records, invoices, contracts, vouchers and/or canceled checks evidencing in proper detail the nature and propriety of the charges.

8. Compliance. The Sponsor understands that funding is contingent upon the Sponsor's compliance with the applicable requirements of the "Local Projects Manual (LPM)" manual (available through NYSDOT's web site at: <https://www.dot.ny.gov/plafap>), and as such may be amended from time to time.

9. Supplemental Agreement or Supplemental Schedule A-1. Supplemental Agreements or Supplemental Schedules A-1 may be entered by the parties, and must be approved in the manner required for a State contract. In the event Project cost estimates increase over the amounts provided for in Schedule A-1 or one or more supplemental Schedules A-1 as may hereafter be developed by the parties hereto or Eligible Project Costs in the Comprehensive List are increased by the legislature, no additional reimbursement shall be due to the Sponsor unless the parties enter into a Supplemental Agreement or Supplemental Schedule A-1 for reimbursement or additional Eligible Project Costs.

10. Project Completion Report. Sponsor shall 6 months from Project completion or final reimbursement by NYSDOT, whichever is earlier, submit a Project Completion Report to NYSDOT describing the sources and uses of all Project-related funds, including non-State funds, and the programmatic accomplishments of the Project.

11. Records and Accounts. Sponsor shall maintain accurate records and accounts of all financial transactions which show in detail all income and all expenditures, including but not limited to, payments for eligible Project costs. Said records shall include the amount of payment by the State, the amount of federal assistance if any received by the municipality for the project and all monies expended by the municipality for the project. Such records and accounts shall include, without limitation, property, personnel and financial records, cash receipts and disbursements journal and general subsidiary ledgers. All records and accounts shall be maintained in accordance with generally accepted accounting standards. All expenditures of the grant reimbursed monies shall be supported by invoices and/or other documentation sufficient to

establish that such monies have been used in accordance with the terms of this Agreement. The NYSDOT Commissioner, Comptroller of the State of New York and any other authorized representatives of the State of New York shall have the right to examine all records and accounts relating to Sponsor's financial transactions, including the expenditure of the grant and all other funds secured and services rendered for the benefit of Sponsor in connection with the Project. Sponsor shall maintain records relating to this Agreement for not less than thirty-six (36) years after the date of completion.

12. *Ethics.* No member of Sponsor's governing body, or any member of the Board of Directors or staff, nor any member of their families shall benefit financially either directly or indirectly from the grant unless such action is necessary for the accomplishment of the Project. In such event, Sponsor shall disclose such relationship to NYSDOT and shall obtain prior written approval therefore from NYSDOT.

13. *NYSDOT Review.* NYSDOT may review the Sponsor's performance of this agreement in such manner and at such times as the Commissioner shall determine, and such review may include field visits by NYSDOT representatives to the Project and/or the offices of Sponsor. Sponsor shall at all times make available its employees, records and facilities to authorized NYSDOT representatives in connection with any such review. Such review shall be for the purpose, among other things, of ascertaining the quality and quantity of Sponsor's performance of the Project, its use and operation.

14. *Failure to Diligently Progress Project or Loss of State or Federal Participation.* If NYSDOT determines that the Sponsor has failed to diligently progress the project, or in the event the Sponsor withdraws its approval of the project, or the Sponsor suspends or delays work on the Project such that it cannot be reasonably completed, or takes other action that results in the loss of state participation and/or federal participation, including the loss of State administration of Federal aid to the Sponsor, for the costs incurred pursuant to this agreement, the Sponsor shall refund to the State all reimbursements received from or through the State. The State may offset any other State aid due to the Sponsor by such amount and apply such offset to such repayment obligation of the Sponsor.

15. *Inspection and Audit.* Sponsor shall permit the authorized representative of NYSDOT and/or the State Comptroller to inspect and audit all books, records and accounts of Sponsor pertaining to the Project under this Agreement. Sponsor shall notify NYSDOT of any audit by any governmental agency of any projects, operations or reports of Sponsor within five (5) days of receiving information relating thereto.

16. *Term of Agreement.* The Project and Term are identified in Schedule(s) A executed herewith and incorporated herein or as subsequently identified in any duly executed and approved supplemental Schedule(s) A as of the date of such supplemental Schedule(s) A. This agreement shall only remain in effect so long as State aid funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a State budgetary hiatus will not by itself be construed to lapse this agreement, provided any necessary State appropriations or other funding authorizations therefor are eventually enacted.

17. *Contract Executory.* It is understood by and between the parties hereto that this Agreement shall be deemed executory only to the extent of the moneys available to the State and no liability on account thereof shall be incurred by the State beyond moneys available for the purpose hereof.

18. *Sponsor Liability; Indemnification.*

18.1 The Sponsor shall be responsible for all damage to person or property arising from any act or negligence performed by or on behalf of the Sponsor, its officers, agents, servants or employees, contractors, subcontractors or others in connection therewith. The Sponsor specifically agrees that its agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

18.2 To the fullest extent permitted by law, the Sponsor shall indemnify and save harmless the State for all damages and costs arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Sponsor its officers, agents, servants, employees contractors, subcontractors or others under this Agreement. Negligent performance of service within the meaning of this Article shall include, in addition to negligence founded upon tort, negligence based upon the Sponsor's failure to meet professional standards and resulting in obvious or patent errors in the progression of its work.

19. *Independent Contractor.* The officers and employees of the Sponsor, in accordance with the status of the Sponsor as an independent contractor, covenant and agree that they will conduct themselves consistent with such status, that they will neither hold themselves out as nor claim to be an officer or employee of the State by reason hereof, and that they will not by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or

employee of the State, including, but not limited to, Workers Compensation coverage, Unemployment Insurance benefits, Social Security or Retirement membership or credit.

20. **Insurance.** Sponsor agrees to procure and maintain without direct cost to the State except as noted during the pendency of this Agreement, insurance of the kinds and in amounts hereinafter provided by insurance companies authorized to do business in the State of New York or, if Sponsor is a municipality that self-insures, an endorsement for such self-insurance covering all operations under this Agreement whether performed by it or sub-contractors. Before commencing the work, Sponsor shall furnish to NYSDOT a certificate or certificates, in a form satisfactory to NYSDOT, showing compliance with this Article, which certificate or certificates, shall provide that such insurance shall not be changed or canceled until thirty (30) days written notice has been given to NYSDOT. Said insurance policies shall name the People of the State of New York, New York State, its officers, agents and employees as additional insureds thereunder. Upon written request by the State, the Sponsor shall furnish to the State a letter certifying that the State of New York, and other required insureds, have been named as additional insureds to such policy. The kinds and amounts of insurance required are as follows:

20.1 **Worker's Compensation and Disability Benefits.** Policy covering the obligations of Sponsor in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Worker's Compensation Law, and also by the provisions of Article 9 of the Worker's Compensation Law known as the Disability Benefits Law, and this Agreement shall be void and of no effect unless Sponsor procures such policy and maintains it until final acceptance of all work described herein;

20.2 **For construction and operating support projects,** Comprehensive General Liability Insurance insuring Sponsor and, as additional insureds, NYSDOT and its employees with respect to all operations under this Agreement by Sponsor, including such coverage any omissions and supervisory acts of the State and its employees. Policies of personal injury liability insurance of the types hereinafter specified, each with a combined single limit of \$1 million per occurrence/\$2 million aggregate for all damages arising out of personal injury, including death at any time resulting therefrom, sustained by one person in any one accident and, subject to that limit for each person, all damage arising out of bodily injury, including death at any time resulting therefrom, sustained by two or more persons in any one accident, damages arising out of injury to or destruction of property in any one accident and, subject to that limit per accident, for all damages arising out of injury to or destruction during the policy period.

20.3 **Automobile Liability and Property Damage Insurance.** Subject to the same required level of coverage set forth in §20.2 above, a policy covering the use in connection with the work covered by the Agreement of all owned, not owned and hired vehicles bearing or, under the circumstances under which they are being used required by New York State law to bear, license plates.

20.4 **Public Liability Insurance.** With respect to the operations performed, regular Contractor's Public Liability insurance is provided for a limit of not less than \$2,000,000. Single Limit, Bodily Injury and/or Property Damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence.

20.5 **Protective Public Liability Insurance.** With respect to the operations performed, subcontractors provide regular Contractor's Protective Public Liability Insurance for a limit of not less than \$2,000,000 Single Limit, Bodily Injury and/or Property Damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence.

The insurance hereinbefore specified shall be carried until all work required to be performed under the terms of the Agreement is satisfactorily completed and formally accepted. Failure to carry or keep such insurance in force until all work is satisfactorily completed shall constitute a violation of the Agreement.

21. **Assignment or Other Disposition of Agreement.** The Sponsor agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement or any part thereof, or of its right, title or interest therein, or its power to execute such Agreement to any person, company or corporation without previous consent in writing of the Commissioner.

22. **Procurement Standards.** Sponsor will award contracts funded pursuant to this Agreement in accordance with procurement laws applicable to Sponsor and otherwise in accordance with the requirements of this Agreement.

23. **NYSDOT Obligations.** NYSDOT's responsibilities and obligations are specified set forth in this contract, and neither NYSDOT nor any of its officers or employees shall be responsible or liable, nor shall the Sponsor assert, make, or join in any claim or demand against NYSDOT, its officers or employees, for any damages or other relief based on any alleged failure of NYSDOT, its officers or employees, to undertake or perform any act, or for undertaking or performing any act, which is not specifically required or prohibited by this contract.

24. *E-Mail Provision Notice.*

1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:
 - (a) via certified or registered United States mail, return receipt requested;
 - (b) by facsimile transmission;
 - (c) by personal delivery;
 - (d) by expedited delivery service; or
 - (e) by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

State of New York Department of Transportation

Name: Keely Bannister
Title: Intermodal Transportation Specialist 2
Address: NYSDOT Aviation Bureau
50 Wolf Road P.O.D. 5-4
Albany, NY 12232
Telephone Number: 518-485-5008
Facsimile Number: 518-457-9779
E-Mail Address: keely.bannister@dot.ny.gov

County of Schenectady

Name: Mr. Paul Sheldon, P.E.
Title: Commissioner of Aviation
Address: Dept. of Eng. & Public Works, 100 Kellar Avenue, Schenectady, NY 12306
Telephone Number: (518) 356-6340, ext. 3226
Facsimile Number: (518) 357-9547
E-Mail Address: paul.sheldon@schenectadycountyny.gov

2. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

3. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

25. *Electronic Contract Payments.* Municipality/Sponsor shall provide complete and accurate supporting documentation of eligible local expenditures as required by this Agreement, NYSDOT and the State Comptroller. Following NYSDOT approval of such supporting documentation, payment for invoices submitted by the Municipality/Sponsor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices from the Statewide Financial System (SFS). The Municipality/Sponsor shall comply with the State Comptroller's procedures for all applicable State Aid to authorize electronic payments. Instructions and authorization forms are available on the New York State Comptroller's website at <https://www.osc.state.ny.us/state-vendors> or by email at epunit@osc.state.ny.us.

26. *Proposed Increase Clause.* Any change in this contract term, or change in scope of work not previously approved by OSC requires a contract amendment, and may require either a Contract Reporter Exemption, or a new procurement. The agency must submit a proposed amendment to OSC immediately for any such proposed change to this agreement. Scope changes requested of OSC after the fact may be denied.

27. *Compliance with Legal Requirements.* Municipality/Sponsor must comply with all applicable federal, state and local laws, rules and regulations, including but not limited to the following:

27.1 *New York State Executive Law Article 15-A, Participation by Minority Group members and Women with Respect to State Contracts and New York State Executive Law Article 17-B, Participation by Service-Disabled Veterans with Respect to State Contracts,* including requirements thereunder relating to equal employment opportunity, and utilization goals and

contracting opportunities for minority and women-owned business enterprises and service-disabled veteran owned business, without additional cost to NYSDOT.

27.1.1 EEO Policy Statement. Pursuant to 5 NYCRR §143.2, a Sponsor shall adopt an EEO policy if one is not previously adopted, as provided in Appendix B, and submit to NYSDOT a signed copy of Appendix B.

27.1.2 MWBE and SDVOB Goals. The Sponsor must comply with all MWBE and SDVOB requirements and goals stated within the provisions of Appendix B, titled, "Minority and Women-Owned Business Enterprises-Service Disabled Veteran Owned Businesses – Equal Employment Opportunity Policy Statement".

27.1.3 MWBE and SDVOB Guidance. Refer to the New York State Department of Transportation website and Appendix B for guidance related to MWBE and SDVOB goals at: <https://www.dot.ny.gov/main/business-center/civil-rights/>

Assigned MWBE and SDVOB goals must be included in the Sponsor's proposed contract documents when submitted for NYSDOT approval prior to project advertisement. Any requests for a reduction or waiver of the goals must be submitted at that time so that the correct goals are included in the project advertisement.

27.1.4 Good Faith Efforts. If a Sponsor fails to meet the MWBE or SDVOB requirements set forth in Appendix B, they must demonstrate Good Faith Efforts pursuant to 5 NYCRR §142.8.

27.1.5 MWBE and SDVOB Compliance Reports. The Sponsor shall require their consultants and contractors to submit electronic, monthly MWBE and SDVOB compliance reports via NYSDOT's Standard Civil Rights Reporting Software (EBO), on or before the 15th day of the immediately preceding month. The Sponsor must apply for access to EBO at the following website: <https://www.dot.ny.gov/dotapp/ebo>.

27.1.6 Failure to Comply. If the Sponsor fails to monitor and administer contracts in accordance with State requirements, the Sponsor will not be reimbursed for associated activities within the affected contracts. The Sponsor must ensure that any contract it awards under this Agreement has a Minority and Women-Owned Business Enterprise (MWBE) and a Service-Disabled Veteran Owned Business (SDVOB) Utilization Plan and complies with such plans. If, without prior written approval by NYSDOT, the Sponsor's contractors and subcontractors fail to complete work for the project as proposed in the MWBE and SDVOB Schedule of Utilization, NYSDOT at its discretion may (1) cancel, terminate or suspend this agreement or such portion of this agreement, or (2) assess liquidated damages in an amount of up to 20% of the portion of the Sponsor's contracts and subcontracts funded in whole or in part by this agreement, to which contract goals are established by NYSDOT.

27.1.7 Equal Employment Opportunity (EEO) Requirements. EEO goals (as provided in "CAPITAL PROJECT GUIDELINES"), EEO Policy Statement (as provided in "Appendix B – MWBE-SDVOB and EEO Policy Statements") and specifications (as provided in NYSDOT's Standard Specifications §102-11 Equal Employment Opportunity Requirements) must be included in the contract documents and project advertisement.
<https://www.dot.ny.gov/main/business-center/engineering/specifications/updated-standard-specifications-us>

27.1.8 EEO Monitoring and Reporting. EEO participation shall be monitored by the Sponsor as the project progresses. EEO participation shall be reported by the contractor through NYSDOT's civil rights reporting software, EBO.

27.2 New York State Environmental Law, Article 6, the State Smart Growth Public Infrastructure Policy Act, including providing true, timely and accurate information relating to the project to ensure compliance with the Act.

28. Reporting Requirements. The Municipality/Sponsor agrees to comply with and submit to NYSDOT in a timely manner all applicable reports required under the provisions of this Agreement and the Aviation Capital Grant Program Guidelines and in accordance with current Federal and State laws, rules, and regulations or as requested by NYSDOT. Reporting forms and schedules will be provided by NYSDOT as reporting requirements are identified.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials.

MUNICIPALITY/SPONSOR:

MUNICIPALITY/SPONSOR ATTORNEY:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

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

On this _____ day of _____, 20__ before me personally came _____ to me known, who, being by me duly sworn did depose and say that he/she resides at _____; that he/she is the _____ of the Municipal/Sponsor Corporation described in and which executed the above instrument; (except New York City) that it was executed by order of the _____ of said Municipal/Sponsor Corporation pursuant to a resolution which was duly adopted on _____ and which a certified copy is attached and made a part hereof; and that he/she signed his name thereto by like order.

Notary Public

APPROVED FOR NYSDOT:

**APPROVED AS TO FORM:
STATE OF NEW YORK ATTORNEY GENERAL**

By: _____
For Commissioner of Transportation

By: _____
Assistant Attorney General

Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

COMPTROLLER'S APPROVAL:

Date: _____

By: _____
For the New York State Comptroller
Pursuant to State Finance Law §112

Aviation Project Funding Agreement - Schedule A-1

OSC Contract # K007335

Project Commencement Date 1/01/2018

Project Completion Date: 12/31/2022

AGREEMENT PURPOSE **MAIN** Agreement **SUPPLEMENTAL** Agreement or Schedule

AGREEMENT COVERS (as shown in tables below):

Grant Agreement

PROJECT TYPE:

Capital Improvement

PROJECT IDENTIFICATION NUMBER: 1905.03

Design and construct a new sanitary sewer line from the existing sewer manhole at the intersection of Rudy Chase Drive and Tech Parks Road, north along Rudy Chase Drive approximately 2,000 feet; relocate beacon.

The sponsor attests that the above Project has a useful service life of 30 years.

Estimated Expenditure Activities (Planning, Design, etc) as per original submitted application

Location: Schenectady County Airport

Owner/Operating and Maintenance Responsibility: Schenectady County

Type of Airport Organization:

Municipality Public Authority Not-for-Profit Corporation Public Benefit Corporation

Business Corporation Partnership Proprietorship _____

B. SUMMARY OF ELIGIBLE PROGRAM COSTS			
AIR'99 FUNDING		OTHER NECESSARY FUNDING	TOTAL
GRANT	LOCAL SHARE		
\$1,485,000	\$185,000	\$	\$1,650,000

Project is: (check which applies) part of an approved airport layout plan, OR
 consistent with an approved airport layout plan

SCHEDULE B: Phases, Sub-phase/Tasks, and Allocation of Responsibility

Instructions: Identify the responsibility for each applicable Sub-phase task by entering *X* in either the *NYSDOT* column to allocate the task to State labor forces or a State Contract, or in the *Sponsor* column indicating non-State labor forces or a locally administered contract.

A1. Preliminary Engineering (“PE”) Phase

<u>Phase/Sub-phase/Task</u>	<u>Responsibility:</u>	<u>NYSDOT</u>	<u>Sponsor</u>
1. <u>Scoping</u> : Prepare and distribute all required project reports, including an Expanded Project Proposal (EPP) or Scoping Summary Memorandum (SSM), as appropriate.		<input type="checkbox"/>	<input type="checkbox"/>
2. Perform data collection and analysis for design, including traffic counts and forecasts, accident data, Smart Growth checklist, land use and development analysis and forecasts.		<input type="checkbox"/>	<input type="checkbox"/>
3. Smart Growth Attestation (NYSDOT ONLY).		<input type="checkbox"/>	<input type="checkbox"/>
4. <u>Preliminary Design</u> : Prepare and distribute Design Report/Design Approval Document (DAD), including environmental analysis/assessments, and other reports required to demonstrate the completion of specific design sub-phases or tasks and/or to secure the approval/authorization to proceed.		<input type="checkbox"/>	<input type="checkbox"/>
5. Review and Circulate all project reports, plans, and other project data to obtain the necessary review, approval, and/or other input and actions required of other NYSDOT units and external agencies.		<input type="checkbox"/>	<input type="checkbox"/>
6. Obtain aerial photography and photogrammetric mapping.		<input type="checkbox"/>	<input type="checkbox"/>
7. Perform all surveys for mapping and design.		<input type="checkbox"/>	<input type="checkbox"/>
8. <u>Detailed Design</u> : Perform all project design, including preparation of plan sheets, cross-sections, profiles, detail sheets, specialty items, shop drawings, and other items required in accordance with the Highway Design Manual, including all Highway Design, including pavement evaluations, including taking and analyzing cores; design of Pavement mixes and applications procedures; preparation of bridge site data package, if necessary, and all Structural Design, including hydraulic analyses, if necessary, foundation design, and all design of highway appurtenances and systems [e.g., Signals, Intelligent Transportation System (ITS) facilities], and maintenance protection of traffic plans. Federal Railroad Administration (FRA) criteria will apply to rail work.		<input type="checkbox"/>	<input type="checkbox"/>
9. Perform landscape design (including erosion control).		<input type="checkbox"/>	<input type="checkbox"/>
10. Design environmental mitigation, where appropriate, in connection with: Noise readings, projections, air quality monitoring, emissions projections, hazardous waste, asbestos, determination of need of cultural resources survey.		<input type="checkbox"/>	<input type="checkbox"/>
11. Prepare demolition contracts, utility relocation plans/contracts, and any other plans and/or contract documents required to advance, separate, any portions of the project which may be more appropriately progressed separately and independently.		<input type="checkbox"/>	<input type="checkbox"/>
12. Compile PS&E package, including all plans, proposals, specifications, estimates, notes, special contract requirements, and any other contract documents necessary to advance the project to construction.		<input type="checkbox"/>	<input type="checkbox"/>
13. Conduct any required soils and other geological investigations.		<input type="checkbox"/>	<input type="checkbox"/>

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT</u>	<u>Sponsor</u>
14. Obtain utility information, including identifying the locations and types of utilities within the project area, the ownership of these utilities, and prepare utility relocations plans and agreements, including completion of Form HC-140, titled Preliminary Utility Work Agreement.	<input type="checkbox"/>	<input type="checkbox"/>
15. Determine the need and apply for any required permits, including U.S. Coast Guard, U.S. Army Corps of Engineers, Wetlands (including identification and delineation of wetlands), SPDES, NYSDOT Highway Work Permits, and any permits or other approvals required to comply with local laws, such as zoning ordinances, historic districts, tax assessment and special districts.	<input type="checkbox"/>	<input type="checkbox"/>
16. Prepare and execute any required agreements, including: - Railroad force account - Maintenance agreements for sidewalks, lighting, signals, betterments - Betterment Agreements - Utility Work Agreements for any necessary Utility Relocations of Privately owned Utilities	<input type="checkbox"/>	<input type="checkbox"/>
17. Provide overall supervision/oversight of design to assure conformity with Federal and State design standards or conditions, including final approval of PS&E (Contract Bid Documents) by NYSDOT.	<input type="checkbox"/>	<input type="checkbox"/>

A2. Right-of-Way (ROW) Incidentals

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT</u>	<u>Sponsor</u>
1. Prepare ARM or other mapping, showing preliminary taking lines.	<input type="checkbox"/>	<input type="checkbox"/>
2. ROW mapping and any necessary ROW relocation plans.	<input type="checkbox"/>	<input type="checkbox"/>
3. Obtain abstracts of title and certify those having an interest in ROW to be acquired.	<input type="checkbox"/>	<input type="checkbox"/>
4. Secure Appraisals.	<input type="checkbox"/>	<input type="checkbox"/>
5. Perform Appraisal Review and establish an amount representing just compensation.	<input type="checkbox"/>	<input type="checkbox"/>
6. Determination of exemption from public hearing that is otherwise required by the Eminent Domain Procedure Law, including <i>de minimis</i> determination, as may be applicable. If NYSDOT is responsible for acquiring the right-of-way, this determination may be performed by NYSDOT only if NYSDOT is responsible for the Preliminary Engineering Phase under Phase A1 of this Schedule B.	<input type="checkbox"/>	<input type="checkbox"/>
7. Conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedures Law, including the provision of stenographic services, preparation and distribution of transcripts, and response to issues raised at such meetings.	<input type="checkbox"/>	<input type="checkbox"/>

B. Right-of-Way (ROW) Acquisition

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Perform all Right-of-Way (ROW) Acquisition work, including negotiations with property owners, acquisition of properties and accompanying legal work, payments to and/or deposits on behalf of property owners; Prepare, publish, and pay for any required legal notices; and all other actions necessary to secure title to, possession of, and entry to required properties. If NYSDOT is to acquire property, including property described as an uneconomic remainder, on behalf of the Municipality/Sponsor, the Municipality/Sponsor agrees to accept and take title to any and all permanent property rights so acquired which form a part of the completed Project.	<input type="checkbox"/>	<input type="checkbox"/>
2. Provide required relocation assistance, including payment of moving expenses, replacement supplements, mortgage interest differentials, closing costs, mortgage prepayment fees.	<input type="checkbox"/>	<input type="checkbox"/>
3. Conduct eminent domain proceedings, court and any other legal actions required to acquire properties.	<input type="checkbox"/>	<input type="checkbox"/>
4. Monitor all ROW Acquisition work and activities, including review and processing of payments of property owners.	<input type="checkbox"/>	<input type="checkbox"/>
5. Provide official certification that all right-of-way required for the construction has been acquired in compliance with applicable Federal, State or Local requirements and is available for use and/or making projections of when such property(ies) will be available if such properties are not in hand at the time of contract award.	<input type="checkbox"/>	<input type="checkbox"/>
6. Conduct any property management activities, including establishment and collecting rents, building maintenance and repairs, and any other activities necessary to sustain properties and/or tenants until the sites are vacated, demolished, or otherwise used for the construction project.	<input type="checkbox"/>	<input type="checkbox"/>
7. Subsequent to completion of the Project, conduct ongoing property management activities in a manner consistent with applicable Federal, State and Local requirements including, as applicable, the development of any ancillary uses, establishment and collection of rent, property maintenance and any other related activities.	<input type="checkbox"/>	<input type="checkbox"/>

C. Construction, Construction Support (C/S) and Construction Inspection (C/I) Phase

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
1. Advertise contract lettings and distribute contract documents to prospective bidders.	<input type="checkbox"/>	<input type="checkbox"/>
2. Conduct all contract lettings, including receipt, opening, and analysis of bids, evaluation/certification of bidders, notification of rejected bids/bidders, and awarding of the construction contract(s).	<input type="checkbox"/>	<input type="checkbox"/>
3. Receive and process bid deposits and verify any bidder's insurance and bond coverage that may be required.	<input type="checkbox"/>	<input type="checkbox"/>
4. Compile and submit Contract Award Documentation Package.	<input type="checkbox"/>	<input type="checkbox"/>
5. Review/approve any proposed subcontractors, vendors, or suppliers.	<input type="checkbox"/>	<input type="checkbox"/>

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

- | | | |
|---|--------------------------|--------------------------|
| 6. Conduct and control all construction activities in accordance with the plans and proposal for the project. Maintain accurate, up-to-date project records and files, including all diaries and logs, to provide a detailed chronology of project construction activities. Procure or provide all materials, supplies and labor for the performance of the work on the project, and insure that the proper materials, equipment, human resources, methods and procedures are used. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7a. For non-NHS or non-State Highway System Projects: Test and accept materials, including review and approval for any requests for substitutions. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7b. For NHS or State Highway System Projects: Inspection and approval of materials such as bituminous concrete, Portland cement concrete, structural steel, concrete structural elements and/or their components to be used in a federal aid project will be performed by, and according to the requirements of NYSDOT. The Municipality/Sponsor shall make or require provision for such materials inspection in any contract or subcontract that includes materials that are subject to inspection and approval in accordance with the applicable NYSDOT design and construction standards associated with the federal aid project. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7c. For projects that fall under both 7a and 7b above, check boxes for each. | | |
| 8. Design and/or re-design the project or any portion of the project that may be required because of conditions encountered during construction. | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Administer construction contract, including the review and approval of all contractor requests for payment, orders-on-contract, force account work, extensions of time, exceptions to the plans and specifications, substitutions or equivalents, and special specifications. | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Review and approve all shop drawings, fabrication details, and other details of structural work. | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Administer all construction contract claims, disputes or litigation. | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Perform final inspection of the complete work to determine and verify final quantities, prices, and compliance with plans specifications, and such other construction engineering supervision and inspection work necessary to conform to Municipal, State and FHWA requirements, including the final acceptance of the project by NYSDOT. | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. Pursuant to Federal Regulation 49 CFR 18.42(e)(1) The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts. | <input type="checkbox"/> | <input type="checkbox"/> |

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

October 2019

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. **EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. **NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. **COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. **WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The

Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s).

Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and

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improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State

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or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov

<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

APPENDIX A-1 SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)
(To be included in all contracts)

During the performance of this contract, the contractor, for itself, its assignees and successors in Interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, age, color, sex or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a) Withholding of payments to the contractor under the contract until the contractor complies; and/or
 - b) Cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontractor procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES-SERVICE DISABLED VETERAN OWNED BUSINESSES -- EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

M/WBE, SDVOB, AND EEO POLICY STATEMENT

I, _____, the representative for the County of Schenectady adopted, or agree to adopt, the following policies with respect to the project being developed or services rendered at Schenectady County Airport.

M/WBE/SDVOB

This organization will and will cause its contractors and subcontractors to take good-faith actions to achieve the M/WBE/SDVOB contract participation goals set by the State for that area in which the State-funded project is located by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs, WBEs, and SDVOBs, including solicitations to M/WBE and SDVOB contractor associations.
- (2) Obtain a list of State-certified M/WBEs from <https://ny.newnycontracts.com/> and solicit bids from them directly.
- (3) Obtain a list of State certified SDVOBs from <https://online.ogs.ny.gov/SDVOB/search> and solicit bids from them directly.
- (4) Ensure that plans, specifications, requests for proposals, and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs and SDVOBs.
- (5) Where feasible, divide the work into smaller portions to enhanced participation by M/WBEs/SDVOBs and encourage joint ventures and other partnerships among M/WBE/SDVOBs contractors to enhance their participation.
- (6) Document and maintain records of bid solicitation, including those to M/WBEs/SDVOBs and the results thereof. This organization will also maintain records of actions that its subcontractors have taken toward meeting M/WBE/SDVOB contract participation goals.
- (7) Ensure that progress payments to M/WBEs/SDVOBs are made on a timely basis so that undue financial hardship is avoided and that, if legally permissible, bonding and other credit requirements are waived, appropriate alternatives developed to encourage M/WBE/SDVOB participation.

EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its workforce on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, disability, or marital status.

(c) At the request of the Sponsor, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) This organization shall comply with the provisions of the Human Rights Law, all other State, and Federal statutory and constitutional non-discrimination provisions. This organization and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Agreed to this _____ day of _____, 20_____

By _____

Print: _____ Title: _____

(10/2023)

APPENDIX B

_____ (Name of Designated Liaison) is designated as this organization's Minority and Women-Owned Business Enterprise Liaison and Service-Disabled Veteran Owned Business Liaison responsible for administering M/WBE/SDVOB-EEO program.

The Municipality/Sponsor/Grantee agrees that the Standard M/WBE and/or SDVOB Contract Goals for projects let and funded (in whole or in part) with proceeds of this Agreement (Contract # K007335) are provided below.

STANDARD CONTRACT GOALS

CATEGORY/CONTRACT TYPE	MBE	WBE	SDVOB
C: Commodities	9.00%	17.00%	6.00%
CC: Construction Consultants (Architectural/Engineering)	20.00%	10.00%	6.00%
CN: Construction	10.00%	15.00%	6.00%
SC: Services/Consultants (Non-Architectural/Engineering)	7.00%	12.00%	6.00%

These Standard Contract Goals are based on the New York State Department of Transportation's (NYSDOT's) Agency M/WBE and SDVOB Goal Plan as a result of programmatic analysis. The plans are available at: FY22-23 M/WBE Goal Plan and FY2021 SDVOB Goal Plan. In furtherance of such goals, the Municipality/Sponsor/Grantee is also required to consider the following statutory factors in all related contracts executed by the Sponsor/Municipality/Grantee:

- (1) the contract and subcontract scope(s) of work,
- (2) the potential subcontract opportunities available in the prime contract,
- (3) the relevant availability data contained within the disparity study with respect to the scope of the contract and potential subcontracting opportunities,
- (4) the number and types of certified minority-owned and women-owned business enterprises (M/WBE) found in the directory of certified minority-owned and women-owned businesses available to perform the related contract work and the number and types of certified service-disabled veteran-owned businesses (SDVOB) found in the SDVOB directory available to perform the related contract work,
- (5) the geographic location of the contract performance,
- (6) the extent to which geography is material to the performance of the contract,
- (7) the ability of certified M/WBEs and SDVOBs located outside of the geographic location of contract performance, notwithstanding the regional location of the certified enterprise, to perform on the Municipality/Sponsor/Grantee's contract,
- (8) the total dollar value of the work required by the Municipality's/Sponsor's/Grantee's contract in relation to the dollar value of the subcontracting opportunities; and
- (9) the relationship of the monetary size and term of the Municipality's/Sponsor's/Grantee's contract to the monetary size and term of the project for which the contract is awarded (See 5 NYCRR 142.2 and 9 CRR-NY 252.2(h)).

Pre-Advertisement: As a result of Municipality's/Sponsor's/Grantee's analysis of the statutory factors in relation to a contract's work scope and circumstances, if the Municipality/Sponsor/Grantee believes a non-standard goal is appropriate and supportable, the Municipality/Sponsor/Grantee may obtain NYSDOT approval by submitting a M/WBE and/or SDVOB Pre-Advertisement Goal Modification Request, with justification, prior to public advertisement of the contract.

Pre-Award: If the Municipality/Sponsor/Grantee receives proposals or bids that do not provide commitments that meet or exceed the advertised goals, the Municipality/Sponsor/Grantee must obtain NYSDOT approval by

(10/2023)

APPENDIX B

submitting a M/WBE and/or SDVOB Waiver Request demonstrating the Contractor's Good Faith Efforts to meet the goals, along with supporting justification, prior to awarding the contract.

Post Award: If any consultant/contractor fails to attain its M/WBE and/or SDVOB commitment on a contract, the Municipality/Sponsor/Grantee must obtain NYSDOT approval by submitting a M/WBE and/or SDVOB Waiver Request, demonstrating Good Faith Efforts to meet the goals, along with supporting justification before NYSDOT will distribute final payment of grant proceeds.

All forms referenced above are available at: <https://www.dot.ny.gov/main/business-center/civil-rights/>. Nothing stated within this or associated document(s) guarantees NYSDOT's approval of a goal modification or goal waiver.

Signature: _____

Title: _____

Name: _____

Date: _____

STATE ENVIRONMENTAL QUALITY REVIEW

In accordance with the rules, regulations and procedures adopted by

County of Schenectady

(or 6NYCRR Part 617 where the Municipal Corporation has not adopted such rules, regulations and procedures) pursuant to the intent of the State Environmental Quality Review Act, the project described below is classified as a:

CHECK ONE

Type I Action - with possible significant effect (NEPA or SEQR DEIS, FEIS and SEQR Record of Decision have been prepared).

Type I Action - with no significant effect (Environmental Assessment Form or Environmental Assessment and Negative Declaration have been prepared and filed).

Unlisted Action - with possible significant effect (NEPA or SEQR DEIS, FEIS and SEQR Record of Decision have been prepared).

Unlisted Action - with no significant effect (Environmental Assessment Form or Environmental Assessment and Negative Declaration have been prepared and filed).

Type II Action

Ministerial Act

Exempt Act

PROJECT DESCRIPTION

Design and construct a new sanitary sewer line from the existing sewer manhole at the Intersection of Rudy Chase Drive and Tech Parks Road, north along Rudy Chase Drive approximately 2,000 feet; relocate beacon.

Authorized Signature

Title

Date

LEGISLATIVE INITIATIVE FORM

Date: 12/1/2023
Reference: Public Facilities, Transportation and Infrastructure
Dual Reference: Ways and Means
Initiative: PFTI 25

Title of Proposed Resolution:

A RESOLUTION TO AUTHORIZE THE COUNTY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH WESTCOTT ENTERPRISES, LLC

Purpose and General Idea:

Provides Authorization to Enter into a Multi-Year Agreement with Westcott Enterprises at the Schenectady County Airport

Summary of Specific Provisions:

Authorizes the County to enter into a multi-year agreement with Westcott Enterprises for the use of their property as an outer marker site for the County Airport. The annual rent has increased from \$2,500 to \$3,000 with the term starting on January 1, 2024, and expiring December 31, 2039. The new lease would have a 15-year term beginning on January 1, 2024, the County will continue to pay Westcott Enterprises an annual fee of \$3,000.00 per year to the owner payable on or before January 31st of each year of the lease term.

Effects Upon Present Law:

Attached is a memorandum from Paul Sheldon, Director of Engineering and Public Works, requesting authorization to enter into a Multi-Year Agreement with Westcott Enterprises with term starting on January 1, 2024, and expiring December 31, 2039. Under this agreement, the County will continue to pay Westcott Enterprises an annual fee for use of their property as an outer marker site for the County Airport. The annual rent has increased from \$2,500 to \$3,000.

As Mr. Sheldon indicates, the outer marker helps to offer aircraft lateral guidance to ensure proper alignment with the runway center during approach and landing.

I recommend your approval.

Justification:

Paul Sheldon, Director of Engineering and Public Works, stated that the outer marker helps to offer aircraft lateral guidance to ensure proper alignment with the runway center during approach and landing. The FAA requires we maintain an outer marker located within a certain distance of the Schenectady County Airport to provide for the Instrument Landing System (ILS). The County currently has a 15-year lease with Wescott Enterprises for the use of their property as an outer marker site which is set to expire on December 31, 2023.

Sponsor: Legislator Patierne

Co-Sponsor:

COUNTY OF SCHENECTADY

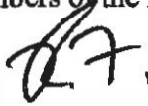


RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Paul Sheldon, Director of Engineering and Public Works

Date: September 1, 2023

RE: Authorization to Enter into a Multi-Year Agreement with Westcott Enterprises at the Schenectady County Airport

Attached is a memorandum from Paul Sheldon, Director of Engineering and Public Works, requesting authorization to enter into a Multi-Year Agreement with Westcott Enterprises with term starting on January 1, 2024, and expiring December 31, 2039. Under this agreement, the County will continue to pay Westcott Enterprises an annual fee for use of their property as an outer marker site for the County Airport. The annual rent has increased from \$2,500 to \$3,000.

As Mr. Sheldon indicates, the outer marker helps to offer aircraft lateral guidance to ensure proper alignment with the runway center during approach and landing.

I recommend your approval.

Schenectady County
Inter-Department Memorandum

DATE: November 17, 2023
TO: Rory Fluman, County Manager
FROM: Paul Sheldon, P.E., Director of Public Works
COPIES: File
SUBJECT: Schenectady County Airport - Outer Marker Lease Agreement PDS

Schenectady County currently has a 15-year lease with Westcott Enterprises for the use of their property as an outer marker site for the Schenectady County Airport. The existing lease is set to expire on December 31, 2023. The new lease will have a 15-year term beginning on January 1, 2024. The County will pay an annual rent of \$3,000.00 per year to the owner payable on or before January 31st of each year of the lease term.

The outer marker identifies the final approach fix (FAF) and is situated on the same course / track as the localizer and the runway centerline, approximately five nautical miles before the runway threshold. The localizer emits a VHF signal, offering aircraft lateral guidance to ensure proper alignment with the runway center during approach and landing.

We recommend approval of this lease.

**COUNTY OF SCHENECTADY
OFFICE OF THE COUNTY ATTORNEY
Inter-Department Correspondence Sheet**

To: Rory Fluman, County Manager

From: Christopher H. Gardner, County Attorney *CHG*

Dated: November 28, 2023

Copies to: Geoffrey T. Hall, Clerk of the Legislature
M. Joe Landry, Counsel to the Legislature
Paul J. Sheldon, P.E., Director of DEPW
Jaclyn Falotico, Commissioner of Finance

Re: Proposed Lease Agreement between the County of Schenectady and Westcott Enterprises, LLC for 0.013 acres in Rotterdam for use as an Outer Marker for the Schenectady County Airport

The current fifteen (15) year Lease Agreement between the County of Schenectady and Westcott Enterprise, LLC expires on December 31, 2023. The proposed fifteen (15) year renewal Agreement is the same except that the annual rent is increased from \$2,500 to \$3,000. The term of the renewal Lease is from January 1, 2024 through December 31, 2039.

Paul Sheldon, the Airport Commissioner advises that this Lease is necessary for the continued operation of the Schenectady County Airport

I recommend that this Agreement be presented to the Schenectady County Legislature for its review and consideration on December 4, 2023.

CHG/kah
Attachments

COPY

LEASE AGREEMENT

THIS AGREEMENT, made as of January 1, 2024, between **WESTCOTT ENTERPRISES, LLC**, a limited liability company organized and existing under the laws of the State of New York, with an office at 34 South Westcott Road, Schenectady, NY 12306, "Landlord" and **THE COUNTY OF SCHENECTADY**, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 620 State Street, Schenectady, New York 12305, "Tenant."

First -- PREMISES DEMISED

The Landlord hereby leases to the Tenant premises located on Westcott Road, Town of Rotterdam, County of Schenectady, New York, known as the outer marker plot (the "Premises"), bounded and described as follows:

ALL THAT PIECE OR PARCEL OF LAND, with the buildings and facilities thereon, in the State of New York, County of Schenectady, Town of Rotterdam, situate, bounded and described as follows: From an iron pipe marking the northwest corner of lands deeded to Joanna Olochnowicz, as recorded in Liber 720, Page 27, County of Schenectady, State of New York, proceed S 80 degrees - 55' E, 537.7 feet to an iron pipe marking the northwest corner and point of beginning of the outer marker plot; thence S 80 degrees - 55' E, 20.9 feet to an iron pipe; thence S 25 degrees - 59' W, 32.1 feet to a point; thence N 64 degrees - 01' W, 20.0 feet to a point; thence N 25 degrees - 59' E, 26.0 feet to the point of beginning containing in all 0.013 acres more or less. All bearings are true.

ALSO, ALL THAT PIECE OR PARCEL OF LAND in the State of New York, County of Schenectady, Town of Rotterdam, with the facilities thereon, situate, bounded and described as follows: Beginning at an iron pipe marking the northwest corner of the lands of Joanna Olochnowicz as recorded in Liber 720, Page 27, County of Schenectady, State of New York, proceed S 09 degrees – 05' W, 60.5 to a point on the easterly edge of Westcott Road said point being the point of beginning the centerline of a 30-foot wide right-of-way described as follows: Thence S 80 degrees – 55' E, 361.0 feet to a point; thence S 67 degrees – 55' E, 133.0 feet to a point; thence N 49 degrees – 35 ' E, 61.5 feet to a point on the southern boundary of the leased premises; provided nothing in this Lease shall restrict Landlord's use of the right-of-way to access Landlord's remaining premises; such use shall not however interfere with Tenant's use.

The location of the leased premises is set forth on Exhibit "A", attached hereto and made a part hereof.

Second – TERM

This lease shall have a term of fifteen (15) years, commencing on the 1st day of January, 2024 and ending on the 31st day of December, 2039. Tenant may cancel and terminate this lease, should at any time the Federal Aviation Administration no longer require the Premises for use as an outer marker site for the Tenant's aviation facility located in the Town of Glenville, New York

Third. RENT

The Tenant shall pay the annual rent of Three Thousand (\$3,000.00) Dollars, annually, in advance, on or before the 31st day of January in each year of the Lease term.

Fourth. TENANT'S RIGHTS

Tenant shall have the right to (i) construct and maintain a crushed stone surfaced service road and power lines, either overhead or underground, within both the above described parcels; (ii) erect suitable fencing around the first described parcel; (iii) grade, condition and install drainage facilities; (iv) seed the soil of the premises; (v) remove all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of Tenant's facilities; (vi) make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the premises hereby leased, which alterations, fixtures, additions, structures or signs so placed in or upon, or attached to the said premises shall be and remain the property of the Tenant.

Fifth. TENANT'S OBLIGATIONS

That the Tenant shall take good care of the premises and shall deliver up the demised premises in good order or condition, damages by the elements excepted.

Sixth. COMPLIANCE OF TENANT

The Tenant shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of the Federal, State and Local Governments and of any and all their Departments and Bureaus applicable to said premises, for the correction, prevention, and abatement of nuisances or other grievances, in, upon, or connected with said premises during said term.

Seventh. ASSIGNMENT

This lease and all of the parties' rights thereunder may not be assigned except on the written approval of the other and except that (i) the Tenant may assign this lease or sublet said premises to the United States Government or any of its authorized agencies without such approval and (ii) in the event a change in title as referred to in Article Fourteenth of this Lease resulting from the transfer by Landlord to a good faith purchaser for value in an arms length transaction, Landlord shall have the right to assign this Lease to such purchaser, provided purchaser agrees to recognize Tenant as such and to perform Landlord's obligations under this Lease.

Eighth. LANDLORD'S RIGHT OF INSPECTION

The Tenant agrees that the said Landlord and the Landlord's agents and other representatives shall have the right to enter into and upon said premises, or any part thereof, at all reasonable hours for the purpose of examining the same.

Ninth. TENANT'S DEFAULT

If default be made in any of the covenants herein contained, then it shall be lawful for the said Landlord to re-enter the said premises, and the same to have again, re-possess and enjoy. The said Tenant hereby expressly waives the service of any notice in writing of intention to re-enter.

Tenth. STRICT PERFORMANCE; ORAL MODIFICATIONS

The failure of the Landlord to insist upon a strict performance of any of the terms, conditions and covenants herein, shall not be deemed a waiver of any rights or remedies that the Landlord may have, and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained. This instrument may not be changed, modified, discharged or terminated orally.

Eleventh. RIGHTS UPON TERMINATION

At the termination of this lease, Lessor shall be entitled to have the land demised herein returned to it clear of all improvements above ground level which have been constructed by Lessee; provided, however, that Lessee may have one hundred eighty (180) days after termination in which finally to remove any such improvements. If Lessee fails to remove said improvements, they shall become the property of the Lessor. If after default in payment of rent or violation of any other provision of this lease, or upon the expiration of this lease, the Tenant moves out or is dispossessed and fails to remove any of its property prior to such said default, removal, expiration of lease, or prior to the issuance of the final order or execution of the warrant, then and in that event, the said tenant's property shall be deemed abandoned by the said Tenant and shall become the property of the Landlord.

Twelfth. LIABILITY INSURANCE

Tenant shall carry public liability insurance with a carrier licensed to do business in the jurisdiction in which the Premises are located. Said insurance shall be in minimum amounts of \$1,000,000.00 for each occurrence with respect to bodily injury and personal injury and \$3,000,000.00 aggregate coverage for each occurrence with respect to bodily injury and personal

injury; property damage \$100,000.00. The policy shall contain an endorsement that will prohibit its cancellation prior to the expiration of thirty (30) days after written notice of such proposed cancellation has been furnished to Landlord. In addition, the policy will name the Landlord as an additional insured.

Thirteenth. QUIET ENJOYMENT

The Landlord warrants that it has good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the Tenant's use and enjoyment of said premises against third party claims.

Fourteenth. NOTIFICATION OF CHANGE IN TITLE

If the Landlord sells or otherwise conveys to another party or parties any interest in the aforesaid land, rights of way thereto, and any areas affecting said demised premises, it shall notify the Tenant in writing, of any such transfer or conveyance affecting the Demised Premises within 30 calendar days after completion of the transfer. Concurrent with the written notification, the Landlord shall provide the Tenant copies of the legal document(s) transferring and or conveying the property rights.

Fifteenth. SUBORDINATION, NONDISTURBANCE AND ATTORNMENT

The Tenant agrees, in consideration of the warranties herein expressed, that this lease is subject and subordinate to any and all recorded deeds of trust, mortgages, and other security instruments now or hereafter imposed upon the premises, so long as such subordination shall not interfere with any right of the Tenant under this lease. It is mutually agreed that this subordination shall be self operative and that no further instrument shall be required to effect said subordination.

In the event of any sale of the premises, or any portion thereof, or any such transfer of ownership, by foreclosure of the lien of any such security instrument, or deed provided in lieu of foreclosure, the Tenant will be deemed to have attorned to any purchaser, successor, assigns, or transferee. The succeeding owner will be deemed to have assumed all rights and obligations of the Landlord under this lease, establishing direct privity of estate and contract between the Tenant and said purchasers/transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Tenant; provided that such transferees shall promptly provide, following such sale or transfer, appropriate documentation deemed necessary by the County, and shall promptly execute any instrument, or other writings, as shall be deemed necessary to document the change in ownership.

Sixteenth. EXECUTORY CLAUSE

It is understood and agreed by and between the parties hereto that, pursuant to law, the contract of the Tenant hereunder shall be deemed executory only to the extent of the monies available to the County for the leasing of the Premises and that no liability shall be incurred by the County beyond the monies available for such purposes. In the event monies referred to herein shall become unavailable, such event shall constitute a default pursuant to Article Ninth.

Seventeenth. NON-DISCRIMINATION

During the performance of this Lease, the Landlord agrees as follows:

(a) The Landlord will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status.

(b) If directed to do so by the Commissioner of Human Rights, the Landlord will send to each labor union or representative of workers with which the Landlord has or is bound by a collective bargaining or other agreement or understanding, a notice, to be provided by the State Commissioner of Human Rights, advising such labor union or representative of the Landlord's agreement under clauses (a) through (g) hereinafter called "non-discrimination clauses". If the Landlord was directed to do so by the Tenant as part of the negotiation of this Lease, the Landlord shall request such labor union or representative to furnish a written statement that such labor union or representative will not discriminate because of race, creed, color, sex, national origin, age, disability or marital status, and that such labor union or representative will cooperate within the limits of its legal and contractual authority, in the implementation of the policy and provisions of these non-discrimination clauses and that it consents and agrees that recruitment, employment and the terms and conditions of employment under this Lease shall be in accordance with the purposes and provisions of these non-discrimination clauses. If such labor union or representative fails or refuses to comply with such a request that it furnish such a statement, the Landlord shall promptly notify the State Commission of Human Rights of such failure or refusal.

(c) If directed to do so by the Commissioner of Human Rights, the Landlord will post and keep posted in conspicuous places, available to employees and applicants for employment, notices to be provided by the State Commissioner of Human Rights setting forth the substance of

the provisions of Clauses (a) and (b) and such provisions of the State's laws against discrimination as the State Commissioner of Human Rights shall determine.

(d) The Landlord will state, in all solicitations or advertisement for employees placed by or on behalf of the Landlord, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, sex, national origin, age, disability or marital status.

(e) The Landlord will comply with the provisions of Sections 290-299 of the Executive Law and with the Civil Rights Law, will furnish all information and reports deemed necessary by the State Commissioner of Human Rights under these non-discriminatory clauses and such sections of the Executive Law, will permit access to the Landlord's books, records and accounts by the State Commissioner for the purposes of investigation to ascertain compliance with these non-discrimination clauses and such sections of the Executive Law and Civil Rights Law.

(f) This Lease may be forthwith cancelled, terminated or suspended, in whole or in part, by the Tenant upon the basis of a finding made by the State Commissioner of Human Rights that the Landlord has not complied with these non-discrimination clauses, and the Landlord may be declared ineligible for future leases made by or on behalf of the State or a public authority or agency of the State, until the Landlord satisfies the State Commissioner of Human Rights that the Landlord has established and is carrying out a program in conformity with the provisions of these non-discrimination clauses. Such finding shall be made by the State Commissioner of Human Rights after conciliation efforts by the Commissioner have failed to achieve compliance with these non-discrimination clauses and after a verified complaint has been filed with the Commissioner, notice thereof has been given to the Landlord and an opportunity has been

afforded the Landlord to be heard publicly in accordance with the Executive Law. Such sanctions may be imposed and remedies involved independently or in addition to sanctions and remedies otherwise provided by law.

(g) The Landlord will include the provisions of (a) through (f) in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to operations to be performed within the leased premises. The Landlord will take such action in enforcing such provisions of such subcontract or purchase order as the State Commissioner of Human Rights or the Tenant may direct, including sanctions or remedies for non-compliance. If the Landlord becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the State Commissioner of Human Rights or the Tenant agency, the contractor shall promptly so notify the Attorney General requesting the Attorney General to intervene and protect the interests of the State of New York.

And the said Landlord doth covenant that the said Tenant on paying the said yearly rent, and performing the covenants aforesaid, shall and may peacefully and quietly have, hold and enjoy the said demised premises for the term aforesaid, provided, however, that this covenant shall be conditioned upon the retention of title to the premises by the Landlord.

Eighteenth. GENERAL PROVISIONS

A. HEADINGS.

The paragraph headings contained herein are for convenience in reference, and are not intended to define or limit the scope of any provisions of this lease.

B. NOTICES.

Notices to Lessee provided for herein shall be sufficient if sent by registered mail, postage prepaid, addressed to: Schenectady County Manager, County Office Building, 620 State Street, Schenectady, New York 12305, with copies to Real Property Tax Service Agency, 620 State Street, Schenectady, New York 12305; and Notices to Lessor, if sent by registered mail, postage prepaid, addressed to: Westcott Enterprises, LLC, 34 Westcott Road, Schenectady, New York 12306; or such other addresses as the parties may designate to each other in writing from time to time.

C. SUCCESSORS AND ASSIGNS.

All of the terms, covenants and agreements herein contained shall be binding upon and shall inured to the benefit of successors and assigns of the respective parties hereto.

D. AGENTS AND BROKERS.

The Landlord and Tenant warrant that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, contingent fee or other compensation and that no brokerage fee of any nature is due any person.

And it is mutually understood and agreed that the covenants and agreements contained in the within Lease shall be binding upon the parties hereto and upon their respective successors, heirs, executors and administrators.

IN WITNESS WHEREOF, the parties have interchangeably set their hands and seals
(or caused these presents to be signed by their proper corporate officers and caused their proper
corporate seal to be hereto affixed) this 13 day of November, 2023.

LANDLORD

WESTCOTT ENTERPRISES, LLC

By *Spencer M. Alachnow* *SP*

TENANT

THE COUNTY OF SCHENECTADY

By _____
RORY FLUMAN
County Manager

Approved as to form and content
this _____ day of _____, 2023


CHRISTOPHER H. GARDNER
County Attorney

STATE OF NEW YORK
COUNTY OF SCHENECTADY

ss.:

KELSEY LYNN CAPPELLO
Notary Public, State of New York
Certified Schenectady County
#01CA0007084
Commission Expires: 5/9/2027

On the 13th day of November, 2023, before me, the undersigned, a Notary Public in and for said State, appeared Elizabeth Glahnowitz individually, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he(she) they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

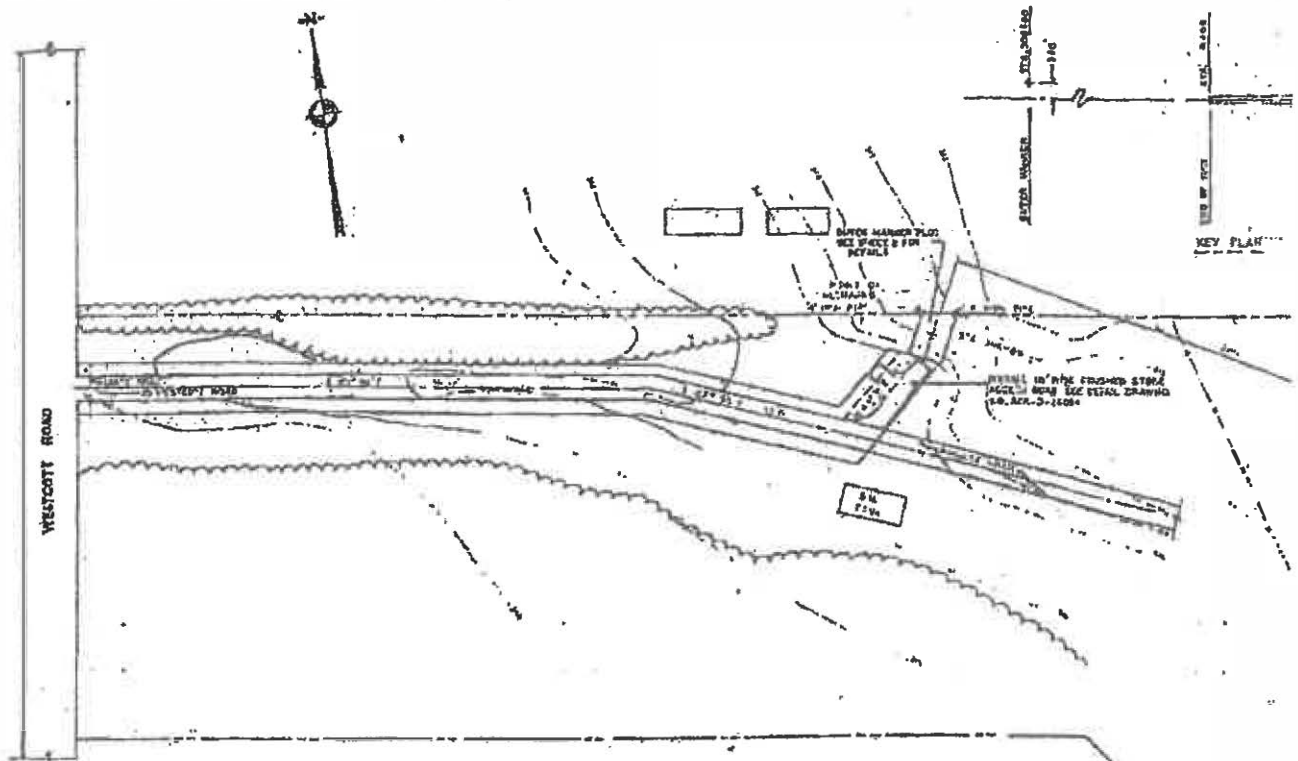

Notary Public State of New York

STATE OF NEW YORK
COUNTY OF SCHENECTADY

ss.:

On the _____ day of _____, 2023, before me, the undersigned, a Notary Public in and for said State, appeared Rory Fluman, individually, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public-State of New York



VICINITY SKETCH

SCALE
 1" = 100'

EXHIBIT A

LEGISLATIVE INITIATIVE FORM

Date: 12/1/2023
Reference: Public Facilities, Transportation and Infrastructure
Dual Reference:
Initiative: PFTI 26

Title of Proposed Resolution:

A RESOLUTION REGARDING THE DESIGNATION OF A RESPONSIBLE LOCAL OFFICIAL FOR PURPOSES OF THE EQUITABLE BUSINESS OPPORTUNITIES REPORTING SYSTEM

Purpose and General Idea:

Provides Authorization to Designate Peter Knutson as the Responsible Local Official for the NYS Department of Transportation's Equitable Business Opportunities

Summary of Specific Provisions:

Authorizes designations of Peter Knutson, Director of the Bureau of Engineering, as the County's Responsible Local Official for Equitable Business Opportunities (EBO). EBO is a web-based civil rights reporting system used by the NYS Department of Transportation to help municipalities and firms in the construction and engineering sectors meet their civil rights reporting obligations. The Responsible Local Official's role as it relates to EBO is to communicate with the NYS Department of Transportation and to provide oversight for the County's projects.

Effects Upon Present Law:

None.

Justification:

Mr. Sheldon is the current Responsible Local Official; however, Mr. Knutson would be best suited for this role as he already provides daily oversight for the department's State and Federal Aid projects.

Sponsor: Legislator Patierne

Co-Sponsor:

COUNTY OF SCHENECTADY



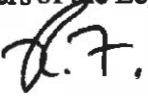
RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355

FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Paul Sheldon, Director of Engineering and Public Works
Peter Knutson, Director of the Bureau of Engineering

Date: December 1, 2023

RE: Authorization to Designate Peter Knutson as the Responsible Local Official for the NYS Department of Transportation's Equitable Business Opportunities

Attached is a memorandum from Paul Sheldon, Director of Engineering and Public Works, requesting authorization to designate Peter Knutson, Director of the Bureau of Engineering, as the County's Responsible Local Official for Equitable Business Opportunities (EBO). EBO is a web-based civil rights reporting system used by the NYS Department of Transportation to help municipalities and firms in the construction and engineering sectors meet their civil rights reporting obligations. The Responsible Local Official's role as it relates to EBO is to communicate with the NYS Department of Transportation and to provide oversight for the County's projects.

Mr. Sheldon is the current Responsible Local Official, but as he indicates Mr. Knutson would be better suited for this role as he already provides daily oversight for the department's State and Federal Aid projects.

I recommend your approval.


Schenectady County
Inter-Department Memorandum

DATE: November 17, 2023

TO: Rory Fluman, County Manager

FROM: Paul Sheldon, P.E., Director of Public Works

COPIES: File

SUBJECT: Responsible Local Officer for Equitable Business Opportunity 

The New York State Department of Transportation (NYSDOT) uses an efficient web-based civil rights reporting system known as EBO (Equitable Business Opportunities) aimed at simplifying and reducing the administrative burden on the construction and engineering sectors in meeting civil rights reporting obligations. EBO necessitates the appointment of a single primary user per firm or municipality to manage the program. The primary user can then grant secondary user access to consultants or staff responsible for overseeing State and Federally funded projects on behalf of the County.

Primary user access requires approval of the County Legislature naming the identified person as the Responsible Local Official who will oversee the program for the County. The Responsible Local Official serves as the local liaison to communicate with the New York State Department of Transportation Regional Local Projects Liaison and provides ultimate oversight and responsibility for the project.

I have served in this role since 2012 however given my new position as Director of Public Works, it is my recommendation that the responsibility for this role should now be transferred to Mr. Peter Knutson, the Director of the Bureau of Engineering. Mr. Knutson already provides daily oversight for all State and Federal Aid projects, making him well-suited to take on the primary user role for the EBO program.

I recommend his approval.

COUNTY OF SCHENECTADY

Memorandum

DATE: October 31st, 2023

TO: Paul Sheldon, Commissioner of Public Works

FROM: Peter Knutson, Senior Civil Engineer

COPY: S. Harris

SUBJECT: Responsible Local Officer for Equitable Business Opportunities (EBO)

As part of New York States Department of Transportation's (NYSDOT) requirements for naming someone as the Responsible Local Officer (RLO) of the Equitable Business Opportunities (EBO), a resolution must be passed naming a person as such. As EBO is a NYSDOT managed website, it is my belief that as Director of the Bureau of Engineering, it would be my responsibility to be the RLO on behalf of Schenectady County.

Therefore, I recommend that the legislature approve this request naming myself as RLO.

Sincerely,



Peter Knutson
Director of the Bureau of Engineering

REQUEST FOR EBO SYSTEM LOG-IN/PASSWORD
(Signature Certification for Municipalities)

APPLICANT INFORMATION

Municipality's Legal Name: Schenectady County

Name and Title of Municipality's Primary Log-In Holder: Peter Knutson, Director of the Bureau of Engineering

E-mail Address: Peter.knutson@schenectadycounvny.gov

Mailing Address: 100 Keller Ave

Mailing Address:

City: Schenectady State: NY Zip Code: 12306

On behalf of the above-listed municipality, I hereby agree to comply with the terms and conditions of access to and use of the Internet Government Solutions (IGS) Equitable Business Opportunities (EBO) system set forth in the System User Agreement attached to this application form.

Signature of Applicant (the Responsible Local Official (RLO):

Peter Knutson
(Printed Name)


(Signature)

Director of Engineering
(Title)

A copy of the municipal resolution must accompany this request.

NYSDOT EQUITABLE BUSINESS OPPORTUNITIES (EBO) SYSTEM USER AGREEMENT

This System User Agreement forms an integral part of each application to the New York State Department of Transportation (NYSDOT) for obtaining log-in/password access to the Equitable Business Opportunities (EBO) System maintained and operated by NYSDOT. By signing and submitting such an application, you agree to be bound by the terms of this System User Agreement.

This System User Agreement governs the terms and conditions upon which your municipality, and your municipality's authorized users (referred to collectively as "User") will be allowed to access and use NYSDOT's EBO System.

NYSDOT authorizes the User, and the User agrees, to access and use the EBO System solely for official business purposes associated with the User's participation in construction, consultant engineering and professional services contracts awarded by NYSDOT or other Federal Aid sub-recipients. Such purposes include the administration of civil rights requirements associated with Federal Aid projects.

NYSDOT requires, and the User agrees, that in accessing and using the EBO System, the User will comply with NYSDOT's Information Security policies, procedures and directives, to the full extent required by NYSDOT's Information Security Officer, NYSDOT's Office of Information Services (OIS), and NYSDOT's EBO System Administrator. Such policies and requirements include the following:

- 1) The User's Primary Log-In ID Holder shall be personally responsible for usage of NYSDOT's EBO System by any and all of the User's other authorized users, including compliance with this System User Agreement and NYSDOT Information Security requirements, and shall exercise oversight over usage of the EBO System by such other authorized users.
- 2) The User will access and use the EBO System solely for the official business purposes indicated above. The User will not use access to the EBO System to access or use any other portion of NYSDOT's information technology (IT) Systems.
- 3) The User will maintain the confidentiality and security of the User's EBO System log-in ID and password, will provide such password only to authorized users within the User's business organization, and will not disclose such password to any persons other than authorized users who are officers or employees of the User.
- 4) The User's Primary Log-In Holder shall promptly deactivate the system access of any former employee, or other formerly authorized user, whom the User no longer authorizes to have access to the EBO System.
- 5) The User shall maintain the confidentiality and security of the Social Security Numbers (SSNs) of the User's employees, and any other confidential information obtained or submitted to NYSDOT in connection with use of the EBO System.



Schenectady County Legislature

Committee on Public Safety and Firefighting

Hon. Thomas Constantine, Chair

6th Floor County Office Building 620 State Street, Schenectady, New York 12305

Phone: (518) 388-4280 Fax: (518) 388-4591

DATE: December 1, 2023
TO: Honorable Schenectady County Legislators
FROM: Geoffrey T. Hall, Clerk of the Legislature
SUBJECT: COMMITTEE AGENDA
Public Safety and Firefighting
Honorable Thomas Constantine, Chair
Monday, December 4, 2023 at 7:00 p.m
Schenectady County Office Building,
Legislative Chambers, Sixth Floor

Item	Title	Sponsor	Co-Sponsors
PSF	11 A RESOLUTION TO ACCEPT MONIES FROM THE NYS DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES FOR PURPOSES OUTLINED IN THE STATEWIDE INTEROPERABLE COMMUNICATIONS GRANT PROGRAM	Legislator Constantine	
PSF	12 A RESOLUTION URGING THE SCHENECTADY COUNTY LEGISLATURE TO ENACT A 12 MONTH MORATORIUM ON THE CREATION OR SITING OF LARGE SCALE BATTERY ENERGY STORAGE SYSTEMS ("BESS")	Legislator Hess	Legislator Cuomo

LEGISLATIVE INITIATIVE FORM

Date: 12/1/2023
Reference: Public Safety and Firefighting
Dual Reference:
Initiative: PSF 11

Title of Proposed Resolution:

A RESOLUTION TO ACCEPT MONIES FROM THE NYS DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES FOR PURPOSES OUTLINED IN THE STATEWIDE INTEROPERABLE COMMUNICATIONS GRANT PROGRAM

Purpose and General Idea:

Provides Authorization to Enter into a Multi-Year Agreement with the NYS Department of Homeland Security and Emergency Services for the 2023 Statewide Interoperable Communications Targeted Grant

Summary of Specific Provisions:

Authorizes County to enter into a multi-year agreement with the NYS Department of Homeland Security and Emergency Services in the amount of \$609,599.00. This grant is for the 2023 Statewide Interoperable Communications Grant and the period of this agreement begins on January 1, 2023, and ends on December 31, 2025

Effects Upon Present Law:

None.

Justification:

Kevin Spawn, Director of the Unified Communications Center, intends to use these funds towards the maintenance of its new radio system. The funds that have been awarded to the County will allow the UCC to conduct routine maintenance to its new 800MHz radio system. These improvements will strengthen the County's communications infrastructure and enhance regional connectivity and cooperation. This grant will be completely closed out by December 31, 2025

Sponsor: Legislator Constantine

Co-Sponsor:

COUNTY OF SCHENECTADY



RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager *RF*

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Kevin Spawn, Director of Unified Communications Center
Jaclyn Falotico, Commissioner of Finance

Date: March 31, 2023

RE: Authorization to Enter into a Multi-Year Agreement with the NYS Department of Homeland Security and Emergency Services for the 2023 Statewide Interoperable Communications Targeted Grant

Attached is a memorandum from Kevin Spawn, Director of the Unified Communications Center, requesting authorization to enter into a multi-year agreement with the NYS Department of Homeland Security and Emergency Services for the 2023 Statewide Interoperable Communications Grant. The period of this agreement begins on January 1, 2023, and ends on December 31, 2025

This \$609,599.00 grant that has been awarded to the County will allow the UCC to conduct maintenance to their new 800MHz Radio system. These improvements will strengthen the County's communications infrastructure and enhance regional connectivity and cooperation.

I recommend your approval.



Schenectady County
Unified Communications Center
2694 Hamburg Street, Schenectady NY 12303
Phone: (518) 630-0911 Fax: (518) 831-2850



Kevin W. Spawn – Director
Albert A. DeIgiacco – Deputy Director

MEMO CORRESPONDENCE

TO: County Manager Rory Fluman

DATE: 11/15/2023

FROM: Director Kevin Spawn

SUBJECT: 2023 Statewide Interoperable Communications Grant

Schenectady County Unified Communications has been awarded a grant under the New York State 2023 Statewide Interoperable Communications Grant Program. The grant funds awarded total \$609,599.00. It is our intent to use these monies towards the maintenance costs of our new 800MHz radio system. This grant must be completed and closed by December 31, 2025.

Please accept this memo as my request for Schenectady County to add these monies to the budget process. If you have any further questions please don't hesitate to ask.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kevin Spawn".

Kevin Spawn
Director



Homeland Security and Emergency Services

KATHY HOCHUL
Governor

JACKIE BRAY
Commissioner

October 24, 2023

The Honorable Anthony Jasenski, Sr.
Chair, Schenectady County Legislature
620 State Street
Schenectady, NY 12305

Dear Mr. Jasenski:

I am pleased to announce that Schenectady County has been awarded \$609,599 under the New York State 2023 Statewide Interoperable Communications Grant Program (2023 SICG-Formula). This program, administered by my agency, allows for the State support to aid county, local and municipal public safety organizations in enhancing emergency response, improving capability, improvements in governance structures, operating procedures, infrastructure development, and addressing SAFECOM guidance from the U.S. Department of Homeland Security Office of Emergency Communications (OEC). The 2023 SICG-Formula Program will concentrate on improving interoperability and operability of communications systems in New York State. Your participation in this program is another example of the successful partnerships we have been developing for public safety and emergency preparedness across the State.

The performance period for the 2023 SICG-Formula grant will be 36 months, beginning January 1, 2023 – December 31, 2025, with the possibility of an extension based upon a good cause shown and ample justification for needing additional time. Expenses that you wish to claim must occur within that period. In order to provide these funds to you as quickly as possible, we will need to gather budget information within 45 calendar days from the date of this letter that reflects the award amount. Our Grants Program Administration staff will work with your designated SICG point of contact to provide additional administrative guidance and to develop a grant contract.

On behalf of Governor Kathy Hochul, the Division of Homeland Security and Emergency Services remains committed to providing outstanding support in the administration of *"your public safety first"* responder initiatives. Please feel free to contact me if you have any questions, at 518-242-5000, or my Office of Interoperable and Emergency Communications (OIEC) Director, Mark Balistreri, at 518-322-4939.

Thank you for your cooperation in this public safety endeavor.

Sincerely,

Jackie Bray
Commissioner

LEGISLATIVE INITIATIVE FORM

Date: 12/1/2023
Reference: Public Safety and Firefighting
Dual Reference:
Initiative: PSF 12

Title of Proposed Resolution:

A RESOLUTION URGING THE SCHENECTADY COUNTY LEGISLATURE TO ENACT A 12 MONTH MORATORIUM ON THE CREATION OR SITING OF LARGE SCALE BATTERY ENERGY STORAGE SYSTEMS (“BESS”)

Purpose and General Idea:

In response to the three separate BESS fires in NYS this past summer, Governor Kathy Hochul recently announced the creation of an inter-agency fire safety working group comprised of the Division of Homeland Security and Emergency Services Office of Fire Prevention and Control, New York State Energy Research and Development Authority (NYSERDA), New York State Department of Environmental Conservation, Department of Public Service, and the Department of State. The group is tasked with conducting a root cause and emergency response analysis to evaluate and identify the cause and effect of the battery storage fires. As a County, our response should be to enact a Moratorium until such time that the findings of the Governor’s task force can be studied and its recommendations implemented in Schenectady County.

Summary of Specific Provisions:

To protect and ensure the health, safety, and well-being of Schenectady County residents and First Responders and to temporarily prohibit the creation or siting of large-scale battery energy storage system installations within the County for a period of up to twelve (12) months, pending the review and implementations of the recommendations of the Governor’s NYS Fire Safety Working Group.

Effects Upon Present Law:

The model Battery Energy Storage System Law developed by NYSERDA, and adopted almost verbatim by the Towns in Schenectady County may not be adequate to ensure the safety and well being of residents and First Responders. As the energy landscape and technology continues to evolve, it is essential to stay updated on regulatory changes, engage with stakeholders, and adapt strategies accordingly.

Justification:

There have been three BESS fires in NYS this past summer. The Governor has become concerned enough to develop a working task force to identify and rectify problems that exist

which are contributing to this trend. In an abundance of caution, and in order to support the municipalities we represent, and for the reasons stated below, a Moratorium is essential.

Based on information and belief, the solar panels at the Rynex Corners Road dumpsite went online in April 2021. The 10 MW Battery Energy Storage System (BESS) went online in December of 2021. It has recently come to my attention that while the Pattersonville Volunteer Fire Department was aware that BESS were to be located on site, they were unaware that the BESS contained lithium-ion batteries and the hazards they present. In fact, they only became aware of this when they participated in their first training at the location in late August of this year.

Some of the concerns voiced to me from the PVFD is that the department has little or no training on fighting a burning Lithium Ion battery fire. They have little or no knowledge of the gasses produced by burning Lithium Ion batteries which presents an imminent and immediate threat to active firefighters. These fires must be monitored for a considerable period of time to ensure that they are fully extinguished. Again, there has been no training on this matter.

There is not an ample public water supply on site. The fire hydrant located at the site is behind a locked, gated area. It is unknown if the code for the Lock Box located on the site has been provided to the PVFD. My understanding is that the fire hydrant that is present is not pressurized-that it is dependent on the water located in the water tower on site which, based on information and belief, is used to provide residential water. The water tank itself is not constantly in a "full" state.

Signage and emergency contact information is not provided on site. The only information provided at the site entrance is a 1" by 6" plastic placard that states: IN CASE OF EMERGENCY CALL DISTRIBUTED SOLAR DEVELOPMENT, LLC @ 518.949.0165, PROMPT 1. NYS BESS Guidance suggests that signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.

Additionally, there is no disconnect and other emergency shutoff information clearly displayed on a light reflective surface. There are no visible warning signs concerning voltage or any other hazard. There is not adequate lighting.

We have failed our First Responders. In addition to needing to better understand why BESS fires are occurring and learning from the state Fire Safety Working Group, we need to use the time a Moratorium will provide to focus on pre-incident planning including funding of same, continuing education and training, adequate protection and equipment, and the implementation of best practices to reduce the potential hazards that currently exist.

Sponsor: Legislator Hess

Co-Sponsor: Legislator Cuomo



Schenectady County Legislature

Committee on Ways and Means

Hon. Philip Fields, Chair

6th Floor County Office Building 620 State Street, Schenectady, New York 12305

Phone: (518) 388-4280 Fax: (518) 388-4591

DATE: December 1, 2023
TO: Honorable Schenectady County Legislators
FROM: Geoffrey T. Hall, Clerk of the Legislature
SUBJECT: COMMITTEE AGENDA
Committee on Ways and Means
Honorable Philip Fields, Chair
Monday, December 4, 2023 at 7:00 p.m
Schenectady County Office Building,
Legislative Chambers, Sixth Floor

Item	Title	Sponsor	Co-Sponsors
WM	12 A RESOLUTION AUTHORIZING THE EXTENSION OF RETURNED VILLAGE TAXES ON THE APPLICABLE TOWN TAX ROLLS	Legislator Fields	
WM	13 A RESOLUTION APPROVING THE REPORT OF FORM AND FOOTING AND ADOPTING THE TAX APPORTIONMENT BASIS	Legislator Fields	
WM	14 A RESOLUTION AUTHORIZING THE CHARGEBACK OF UNCOLLECTIBLE TAXES TO CERTAIN SCHOOL DISTRICTS	Legislator Fields	

Item	Title	Sponsor	Co-Sponsors
WM	15 A RESOLUTION AMENDING INTERNAL POLICIES AND PROCEDURES FOR THE PROCUREMENT OF BID AND NON-BID GOODS AND SERVICES	Legislator Fields	
PFTI	23 A RESOLUTION REGARDING THE ACCEPTANCE OF MONIES FROM THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR THE PURCHASE OF EQUIPMENT FOR USE AT THE SCHENECTADY COUNTY AIRPORT	Legislator Patierne	
PFTI	24 A RESOLUTION REGARDING THE ACCEPTANCE OF MONIES FROM THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS AT THE SCHENECTADY COUNTY AIRPORT	Legislator Patierne	
PFTI	25 A RESOLUTION TO AUTHORIZE THE COUNTY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH WESTCOTT ENTERPRISES, LLC	Legislator Patierne	

LEGISLATIVE INITIATIVE FORM

Date: 12/1/2023
Reference: Ways and Means
Dual Reference: Ways and Means
Initiative: WM 12

Title of Proposed Resolution:

A RESOLUTION AUTHORIZING THE EXTENSION OF RETURNED VILLAGE TAXES ON THE APPLICABLE TOWN TAX ROLLS

Purpose and General Idea:

Extension of Returned Village Taxes on the Applicable Town Tax Rolls

Summary of Specific Provisions:

Extension of Returned Village Taxes on the Applicable Town Tax Rolls

Effects Upon Present Law:

Each year uncollected village taxes are returned to the County for collection. The villages are indemnified by the County for the amount of the uncollected taxes returned to the County. Any amounts not subsequently collected by the County are relieved on the ensuing year's Town/County tax bill.

In order to relevy these amounts on next year's Town/County tax bill, a resolution authorizing extension of the returned village taxes on the applicable town tax rolls is required to be approved by the Legislature.

Returned village taxes are as follows:

Village Taxes Returned:

Village of Delanson	\$ 12,836.06
Village of Scotia	\$ 266,172.90

The Department of Finance recommends legislative authorization of the amounts identified above.

Justification:

Each year, uncollected village taxes are returned to the County for collection. The villages are

indemnified by the County for the amount of the uncollected taxes returned to the County. Any amounts not subsequently collected by the County are relieved on the ensuing year's Town/County tax bill.

In order to relive these amounts on next year's Town/County tax bill, a resolution authorizing the extension of the returned village taxes on the applicable town tax rolls is required to be approved by the Legislature.

Sponsor: Legislator Fields

Co-Sponsor:

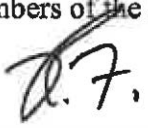
COUNTY OF SCHENECTADY



RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature
From: Rory Fluman, County Manager 
CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Jaclyn Falotico, Commissioner of Finance
Date: December 1, 2023
Re: Extension of Returned Village Taxes on the Applicable Town Tax Rolls

Village taxes that go uncollected are returned to the County for collection on an annual basis. The County then indemnifies the village(s) for the amount of uncollected taxes received by the County.

Attached is a memorandum from Jaclyn Falotico, Commissioner of Finance, requesting authorization to extend the returned village taxes to the applicable town roll.

I recommend your approval.

Memo

To: Rory Fluman, County Manager
From: Jaclyn L. Falotico, Commissioner of Finance *JF*
Date: November 28, 2023
Re: Village Taxes Returned

Each year uncollected village taxes are returned to the County for collection. The villages are indemnified by the County for the amount of the uncollected taxes returned to the County. Any amounts not subsequently collected by the County are relieved on the ensuing year's Town/County tax bill.

In order to relevel these amounts on next year's Town/County tax bill, a resolution authorizing extension of the returned village taxes on the applicable town tax rolls is required to be approved by the Legislature.

Returned village taxes are as follows:

Village Taxes Returned:

Village of Delanson	\$ 12,836.06
Village of Scotia	\$ 266,172.90

The Department of Finance recommends legislative authorization of the amounts identified above.

LEGISLATIVE INITIATIVE FORM

Date: 12/1/2023
Reference: Ways and Means
Dual Reference: Ways and Means
Initiative: WM 13

Title of Proposed Resolution:

A RESOLUTION APPROVING THE REPORT OF FORM AND FOOTING AND ADOPTING THE TAX APPORTIONMENT BASIS

Purpose and General Idea:

Provides for the acceptance of assessed values for 2024 County tax apportionment and tax levy purposes.

Summary of Specific Provisions:

Establishes the assessed values to be used for apportionment and levy of County taxes, as verified by the various municipal assessors.

Effects Upon Present Law:

The assessed values to be used for the 2024 County tax apportionment and tax levy, as verified by the local municipal assessors, are as follows:

Assessed Values for Apportionment Purposes

Town of Duanesburg	\$	182,690,726
Town of Glenville		2,199,055,752
Town of Niskayuna		2,639,637,728
Town of Princetown		71,033,127
Town of Rotterdam		2,616,038,632
City of Schenectady		<u>2,821,650,317</u>
TOTAL	\$	10,530,106,282

Assessed Values for Tax Levy Purposes

Town of Duanesburg	\$	174,923,542
Town of Glenville		2,126,304,200
Town of Niskayuna		2,559,073,934
Town of Princetown		68,362,630
Town of Rotterdam		2,450,690,425
City of Schenectady		<u>2,470,993,135</u>

TOTAL \$ 9,850,347,866

The Department of Finance recommends legislative authorization of the amounts identified above.

Justification:

Approval is required in order to apportion the County's annual real property tax levy.

Sponsor: Legislator Fields

Co-Sponsor:

COUNTY OF SCHENECTADY

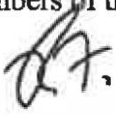


RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Jaclyn Falotico, Commissioner of Finance

Date: December 1, 2023

Re: Acceptance of Assessed Values for 2024 County Tax Apportionment and Tax Levy Purposes

Attached is a memorandum from Jaclyn Falotico, Commissioner of Finance, requesting acceptance of assessed values for 2024 County tax apportionment and tax levy purposes.

I recommend your approval.

Memo

To: Rory Fluman, County Manager
From: Jaclyn Falotico, Commissioner of Finance *JF*
Date: November 28, 2023
Re: Assessed Values for 2024 County Tax Apportionment and Tax Levy Purposes

The assessed values to be used for the 2024 County tax apportionment and tax levy, as verified by the local municipal assessors, are as follows:

Assessed Values for Apportionment Purposes

Town of Duanesburg	\$ 182,690,726
Town of Glenville	2,199,055,752
Town of Niskayuna	2,639,637,728
Town of Princetown	71,033,127
Town of Rotterdam	2,616,038,632
City of Schenectady	<u>2,821,650,317</u>
TOTAL	\$ 10,530,106,282

Assessed Values for Tax Levy Purposes

Town of Duanesburg	\$ 174,923,542
Town of Glenville	2,126,304,200
Town of Niskayuna	2,559,073,934
Town of Princetown	68,362,630
Town of Rotterdam	2,450,690,425
City of Schenectady	<u>2,470,993,135</u>
TOTAL	\$ 9,850,347,866

The Department of Finance recommends legislative authorization of the amounts identified above.

LEGISLATIVE INITIATIVE FORM

Date: 12/1/2023
Reference: Ways and Means
Dual Reference: Ways and Means
Initiative: WM 14

Title of Proposed Resolution:

A RESOLUTION AUTHORIZING THE CHARGEBACK OF UNCOLLECTIBLE TAXES TO CERTAIN SCHOOL DISTRICTS

Purpose and General Idea:

To relevy uncollected school taxes following indemnification by the County.

Summary of Specific Provisions:

Relevies uncollected school taxes in the several towns of Schenectady County.

Effects Upon Present Law:

Each year uncollected school taxes are returned to the County for collection. The school districts are indemnified by the County for the amount of the uncollected taxes returned to the County. Any amounts not subsequently collected by the County are relevied on the ensuing year's Town/County tax bill.

In order to relevy these amounts on next year's Town/County tax bill, a resolution authorizing extension of the returned school taxes on the applicable town tax rolls is required to be approved by the Legislature.

Returned school taxes are as follows:

School Taxes Returned:

Duanesburg:

Duanesburg Central	\$	372,887.99
Schalmont Central		251,915.33
Schoharie Central		34,860.12

Glenville:

Scotia Glenville Central	\$	1,199,040.57
Burnt Hills Ballston Lake Central		331,510.62
Niskayuna Central		134,041.20

<u>Niskayuna:</u>		
South Colonie Central	\$	139,651.46
Niskayuna Central		1,143,627.00
 <u>Princetown:</u>		
Schalmont Central	\$	360,023.34
Duanesburg Central		830.15
 <u>Rotterdam:</u>		
Schalmont Central	\$	702,952.78
Mohonasen Central		1,018,441.87

The Department of Finance recommends legislative authorization of the amounts identified above.

Justification:

Each year, uncollected school taxes are returned to the County for collection. The school districts are indemnified by the County for the amount of the uncollected taxes returned to the County. Any amounts not subsequently collected by the County are relieved on the ensuing year's Town/County tax bill.

In order to relevel these amounts on next year's Town/County tax bill, a resolution authorizing extension of the returned school taxes on the applicable town tax rolls is required to be approved by the Legislature.

Sponsor: Legislator Fields

Co-Sponsor:

COUNTY OF SCHENECTADY



RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature
From: Rory Fluman, County Manager *R.F.*
CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Jaclyn Falotico, Commissioner of Finance
Date: December 1, 2023
Subject: Extension of Returned School Taxes on the Applicable Town Tax Rolls

Annually, uncollected school taxes are returned to the County for collection. The school district(s) are indemnified by the County equal to the amount of uncollected taxes. Any taxes that remain uncollected by the County are re-levied in the subsequent town tax roll.

Attached is a memorandum from Jaclyn Falotico, Commissioner of Finance, requesting authorization for the extension of returned school taxes to the applicable town rolls.

I recommend your approval.

Memo

To: Rory Fluman, County Manager
From: Jaclyn Falotico, Commissioner of Finance *rf*
Date: November 28, 2023
Re: School Taxes

Each year uncollected school taxes are returned to the County for collection. The school districts are indemnified by the County for the amount of the uncollected taxes returned to the County. Any amounts not subsequently collected by the County are relieved on the ensuing year's Town/County tax bill.

In order to relevy these amounts on next year's Town/County tax bill, a resolution authorizing extension of the returned school taxes on the applicable town tax rolls is required to be approved by the Legislature.

Returned school taxes are as follows:

School Taxes Returned:

<u>Duanesburg:</u>	
Duanesburg Central	\$ 372,887.99
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<u>Princetown:</u>	
Schalmont Central	\$ 360,023.34
Duanesburg Central	830.15
<u>Rotterdam:</u>	
Schalmont Central	\$ 702,952.78
Mohonasen Central	1,018,441.87

The Department of Finance recommends legislative authorization of the amounts identified above.

LEGISLATIVE INITIATIVE FORM

Date: 12/1/2023
Reference: Ways and Means
Dual Reference: Ways and Means
Initiative: WM 15

Title of Proposed Resolution:

A RESOLUTION AMENDING INTERNAL POLICIES AND PROCEDURES FOR THE
PROCUREMENT OF BID AND NON-BID GOODS AND SERVICES

Purpose and General Idea:

Provides authorization to adopt the Schenectady County Purchasing Policy

Summary of Specific Provisions:

Authorizes the adoption of an updated version of the Schenectady County Purchasing Policy,
pursuant to NYS General Municipal Law.

Effects Upon Present Law:

None.

Justification:

Changes were made that incorporated the current State and County laws and regulations.

Sponsor: Legislator Fields

Co-Sponsor:

COUNTY OF SCHENECTADY

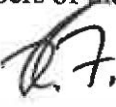


RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager 

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Christopher Gardner, County Attorney
Julie McDonnell, County Auditor
Thomas Bellick, Purchasing Agent
Jaclyn Falotico, Commissioner of Finance

Date: December 1, 2023

Re: Authorization to Adopt the Schenectady County Purchasing Policy

Attached is a memorandum from Julie McDonnell, County Auditor, requesting authorization to adopt an updated version of the Schenectady County Purchasing Policy, pursuant to NYS General Municipal Law. Changes were made that incorporated current State and County laws and regulations.

I want to thank the Julie McDonnell County Auditor, Chris Gardner County Attorney, and our Purchasing Agent Thomas Bellick for their collaborative efforts in updating this policy.

I recommend your approval.

Memo

To: County Manager
County Legislature

From: Julie McDonnell, County Auditor

Date: 12/1/2023

Re: Updated County Purchasing Policy

New York State General Municipal Law requires the governing board of each municipality to adopt its own policies and procedures for procurement of goods and services not required by law to be competitively bid “to assure the prudent and economical use of public moneys in the best interest of the taxpayers; to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost, and to guard against favoritism, improvidence, extravagance, fraud and corruption”. The purchasing policy must be reviewed annually and include the names and titles of the individuals responsible for purchasing.

Attached is an updated County Purchasing Policy for your consideration at the December Legislative meeting. Although there are no major substantive changes, this document incorporates the most current State and County laws, regulations, and policies, as well as additional County priorities and considerations (e.g., environmental impact).

The Purchasing Agent, Finance Commissioner and County Attorney provided information and assistance in reviewing and updating the policy document.

Please let me know if you have any questions. Thank you for your consideration.

Schenectady County Purchasing Policy

December 2023

Adopted by Resolution XX-23 of the Schenectady County Legislature

BACKGROUND:

Schenectady County conducts its purchasing program in accordance with the laws, rules, and regulations of New York State government (NYS), the Schenectady County Charter, and the Schenectady County Administrative Code. In addition, Section 104-b of NYS General Municipal Law (GMU) requires local governments to adopt their own policies and procedures to address purchases that do not meet the statutory bid requirements.

This Purchasing Policy reflects the specific objectives and priorities of the County Legislature and includes directives and guidance to County departments in achieving these objectives.

OBJECTIVES:

- (1) To acquire the highest quality materials, supplies, and services for County departments to use in fulfilling their responsibilities.
- (2) To ensure that these materials, supplies, and services are available in a timely manner.
- (3) To obtain the best price and value available to maximize the value of taxpayer resources.

PRINCIPLES/GOALS:

- The County provides a purchasing program that safeguards taxpayer resources, ensures fairness and integrity, and guards against favoritism, fraud, and corruption.
- The County's purchasing process is open and transparent to potential vendors and the public; minority and women-owned businesses are encouraged to participate.
- The County's Purchasing Department and a designated Purchasing Agent provide expertise, information and assistance to County departments, vendors, and the public.
- To maximize cost savings, competitive processes are used to negotiate county-wide vendor contracts and existing government contracts, preferred sources, approved consortiums, and cooperative purchasing agreements are utilized.
- The County is proactive in protecting our environment by seeking and utilizing environmentally responsible products, vendors, processes, and transport.

COMPLIANCE, ETHICS, AND FRAUD PREVENTION:

All County departments and their staff must comply with the County *Code of Ethics* and *Fraud, Waste and Abuse Prevention Policy* in procuring government goods and services. Proper internal controls should be implemented to prevent fraud, and conflicts of interest, both in fact and appearance, should be avoided.

Vendor contracts should include appropriate references to laws, regulations, policies, and reporting requirements, and all required certifications (e.g., non-collusion, divestment) should be attached to the contract document.

Schenectady County Purchasing Policy

December 2023

DESIGNATED PERSONNEL:

The following individuals are primarily responsible for administering Schenectady County's Purchasing Program:

Thomas Bellick, *Purchasing Agent*

Margaret Aragosa, *Assistant Purchasing Agent*

Jaelyn Falotico, *Commissioner of Finance*

Christopher Gardner, *County Attorney*

Rory Fluman, *County Manager*

The Purchasing Agent is responsible for ensuring compliance with laws, rules, regulations, and policies.

Specific duties include:

- Administer the competitive bidding process.
- Solicit, document, and evaluate quotes/ proposals when competitive bids are not legally required.
- Prepare and transmit Purchase Orders for items requested by County departments.
- Negotiate county-wide contracts for goods and services routinely used by multiple departments.
- Maintain lists of government contracts, preferred sources, consortiums, and cooperative agreements.
- Provide purchasing information and assistance to departments, vendors, and the public.

Note that the Purchasing Agent does not handle transactions for the purchase and lease of real property.

PURCHASE OF COMMODITIES, PUBLIC WORKS, AND OTHER SERVICES:

Commodities are materials, supplies, equipment, and other products or consumables. **Public Works** are building, or construction projects that meet the prevailing wage requirements of Article 8 of the NYS Labor Law. **Other Services** are those that do not fall under the definition of Public Works or Professional Services.

Purchases Requiring Competitive Bids:

Commodities and Services \$20,000 and above, and Public Works Contracts \$35,000 and above:

The purchase of materials, supplies, equipment, or other services in aggregate* of more than twenty thousand dollars per year, or public works contracts in aggregate* of more than thirty-five thousand dollars per year, to an individual vendor must be competitively bid under NYS Municipal law. However, certain exceptions to competitive bidding are allowed; see *Attachment A* for a list and description of these exceptions.

Process: The Purchasing Agent works with the responsible department to develop project specification and requests for bids are advertised in the County's official newspaper and/or distributed online through a free, public forum. Vendor bids are received and opened after a minimum of five days after the bid publication. Note that Schenectady County Resolution 119-20 authorizes the acceptance of vendor bids and offers submitted electronically (this does not apply to Public Works contracts).

Bid results are reviewed by the Purchasing Agent and an award is made to the lowest responsible bidder or using the best value standard authorized by Schenectady County Local Law 1-13

Public Works Construction Contracts exceeding \$200,000 may only be awarded to contractors and subcontractors that have approved apprenticeship programs as defined in Article 23 of New York State Labor Law.

Schenectady County Purchasing Policy

December 2023

***Aggregate Purchases:** Monetary thresholds cannot be avoided by splitting contracts into lesser agreements or a series of agreements. The requirements above apply to aggregate purchases from the same vendor, or of the same or similar type of commodity or service during a twelve-month period.

Purchases Below Competitive Bidding Threshold:

Formal competitive bids are not legally required to purchase commodities or services under \$20,000, or to award Public Works contracts under \$35,000. However, the County procures all items and services using open and competitive processes whenever practicable.

Commodities and other Services:

Purchases less than \$2,000: Departments consult with the Purchasing Department and follow the procedures outlined in the Purchasing Manual.

Purchases of \$2,000-\$5,000: Departments prepare and send a Requisition to the Purchasing Agent. A minimum of three documented verbal quotes must be obtained, and a Purchase Order will be issued to the lowest qualified vendor.

Purchases of \$5,001-\$19,999: Departments prepare and send a Requisition to the Purchasing Agent. A minimum of three written quotes must be obtained, and a Purchase Order is issued to the lowest qualified vendor.

The County Manager or Purchasing Agent may authorize a department to order merchandise directly from vendors under existing municipal contracts, approved consortiums, or from NYS preferred vendors.

Public Works:

Purchases less than \$5,000: Departments consult with the Purchasing Department and follow the procedures outlined in the Purchasing Manual.

Purchases of \$5,000-\$34,999: Departments prepare and send a Requisition to Purchasing Agent. A minimum of three written quotes must be obtained, and a Purchase Order is issued to the lowest qualified vendor.

Public Posting in Lieu of Quotes: If three verbal or written quotes cannot be obtained, the Purchasing Agent may post an online solicitation and select a quote from the lowest qualified vendor.

Additional Requirements and Considerations:

Energy/ Environmental: Schenectady County Resolution 66-08 requires all County agencies and departments to purchase Energy Star-certified products when available. In addition, NYS law allows preferences for recycled products and environmentally sensitive cleaning and maintenance products.

Equal Employment/Affirmative Action: Contracts over \$200,000 must comply with the minority and women owned business participation levels specified in the *Schenectady County Equal Opportunity and Affirmation Action Plan* (June 2019) if other Federal or State funding HEO/AA requirements are not specified.

PROFESSIONAL SERVICES:

Professional Services require specialized or technical skills, expertise or knowledge, the exercise of professional judgment, or a high degree of creativity. Article 5A, Section 104-B of NYS GMU states that “professional services must be procured in a manner that assures the prudent and economical use of public monies in the best interest of the taxpayers.” The selection method to be used may include, but is not limited to, request for proposals, request for qualifications, recruitment, or open acceptance of proposals. Professional services contracts awarded with State or Federal funds must comply with any additional laws or requirements specified.

Process: When Professional Services are required, the requesting department should consult with the Purchasing Agent, County Attorney, and Finance Commissioner to determine the best method for solicitation, evaluation, and selection of proposals. Once a proposal is selected, the County Attorney prepares a Professional Services Contract which must be approved and signed by the County Manager.

OTHER SERVICE AGREEMENTS:

Maintenance Agreements: Maintenance agreements for new or existing equipment are procured and administered by the Purchasing Agent.

Information Technology Services and Software: Computer and other technology services and software licenses are procured by the Purchasing Agent, after review and consultation with the Department of Information Services.

Other Equipment Leases/Rentals: Equipment leases and rental agreements are procured by the Purchasing Agent, in consultation with the Finance Department and the County Attorney.

Specialized Services: Other services unique to individual departments are procured in consultation with the Purchasing Agent, Finance Commissioner, County Attorney, and County Manager.

PURCHASING PROCEDURES MANUAL:

The County Purchasing Department maintains a detailed manual which includes specific instructions, processes, and procedures for departmental orders, receipts, and payment authorization.

Schenectady County Purchasing Policy

December 2023

Sources and References:

- New York State General Municipal Law: Article 5A: § 103 and 104 (Procurement)
- New York State Finance Law: Article 11: § 162 (Preferred Sources)
Article 11: § 163 (Services & Commodities)
- New York State Labor Law: Article 8 (Public Works)
Article 23 (Apprenticeship Programs)
- New York State Technology Law: Article 3 (Electronic Bids)
- Laws of Schenectady County: Chapter 95: Ethics and Disclosure Law
Local Law 1 of 2013: (Best Value Basis of Award)
Resolution 119-20: (Electronic Bids)
- Schenectady County Policies: Fraud Waste and Abuse Prevention Policy
Equal Opportunity and Affirmative Action Plan
- Office of the New York State Comptroller: *Seeking Competition in Procurement* (June 2016)

ATTACHMENT A

EXCEPTIONS TO COMPETITIVE BIDDING REQUIREMENTS

(Per New York State GMU Article 5A, Sections 103 and 104)

- (1) **Existing State, Municipal, and Federal Contracts:** Purchases of commodities and public works may be made under existing contracts with New York State (Office of General Services), NYS municipalities, and the Federal government where permitted. Departments should consult with the Purchasing Agent to determine the availability of existing State and municipal contracts.

- (2) **Consortiums and Cooperative Purchasing Contracts:** Some commodities can be ordered through established national and regional cooperative purchasing contracts such as:
 - Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP)
 - U.S. Communities Government Purchasing Cooperative
 - NASCO Valvepoint
 - National Joint Powers Alliance (NJPA), or the HGAC Buy Cooperative Purchasing Program.Departments should consult with the Purchasing Agent to determine the availability and process for utilizing cooperative purchase agreements.

- (3) **Emergency Procurement:** Emergency situations are defined as “a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of a political subdivision or district therein, require immediate action” In an emergency, the Purchasing Agent has the authority to make expenditures below the legal competitive bid thresholds without seeking quotes. A written description of the emergency must be provided, to document the expedited process. If the situation requires purchases or contracts above the legal bid threshold, the County Manager must authorize the expenditure by declaring the County emergency in writing.

- (4) **Sole Source Procurement:** A purchase may be exempt from competitive procurement if the Purchasing Agent makes a reasonable effort to determine that the item or service required is only available from one source. The Agent must document the reason(s) for sole source procurement. If the procurement is above the legal competitive bid threshold it must also be approved by the County Manager.

- (5) **Hospital Purchases:** Purchases of hospital supplies and services may be made without competitive bidding if made under joint contracts with other public or private hospitals or medical facilities. Per *OSC Opinion 89-2* the Glendale Nursing Home qualifies as a “municipal hospital”.

- (6) **Preferential Vendors:** Purchases from agencies for the disabled, agencies for the blind, and correctional facilities are exempt from competitive bidding. County departments are encouraged to purchase materials, supplies, and equipment from these entities whenever possible. More information about preferred sources can be found at <https://ogs.ny.gov/procurement/preferred-sources>.