

**CITY OF WATERTOWN, NEW YORK**  
**REVISED AGENDA**  
**Monday, November 18, 2019**

This shall serve as notice that the next regularly scheduled meeting of the City Council will be held on Monday, November 18, 2019, at 7:00 p.m. in the City Council Chambers, 245 Washington Street, Watertown, New York.

**MOMENT OF SILENCE**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**ADOPTION OF MINUTES**

**COMMUNICATIONS**

**PRIVILEGE OF THE FLOOR**

**RESOLUTIONS**

- Resolution No. 1 - Appointment to the Transportation Commission – Adam D. Ruppe
- Resolution No. 2 - Accepting Proposal for Drug And Alcohol Testing
- Resolution No. 3 - Authorizing Marchiselli Supplemental Aid Project Agreement – Supplemental #1, Contract No. D035666 : Massey Street, Coffeen Street, & Court Street Bridges, PIN 775362, ROW Incidentals
- Resolution No. 4 - Approving Agreement for Public Benefit Services Between the City of Watertown and the Community Action Planning Council of Jefferson County, Inc.
- Resolution No. 5 - Accepting NYS DOT Mass Transportation Capital Project Agreement
- Resolution No. 6 - Approval of Application for New York State Department of Environmental Conservation (NYS DEC) Urban and Community Forestry Grant Program
- Resolution No. 7 - Establishing a Publicity Fund Pursuant to Section 13-b of the New York General City Law

Resolution No. 8 - Approving Agreement for Publicity Fund Services Between the City of Watertown and the Thompson Park Conservancy, Inc.

Resolution No. 9 - Approving Interlocal Contract For Cooperative Purchasing (HGACBuy)

## **ORDINANCES**

### **LOCAL LAW**

Proposed Local Law No. 3 of 2019 A Local Law Imposing a Temporary Moratorium on the Issuance of Sign Permits for any Exterior/Digital/LED/Changeable Copy Sign or Billboard, of Whatever Size, in any of the City's Zoning Districts as Identified at Section 310-2(A) of the Code of the City of Watertown

### **PUBLIC HEARING**

### **OLD BUSINESS**

### **STAFF REPORTS**

1. Setting a Public Hearing Prior to Adopting the Comprehensive Plan for the City of Watertown
2. Scheduling a Public Hearing for the Proposed Thompson Park Public Parking Lot

### **NEW BUSINESS**

### **EXECUTIVE SESSION**

To Discuss Collective Bargaining

### **WORK SESSION**

### **ADJOURNMENT**

**NEXT REGULARLY SCHEDULED CITY COUNCIL MEETING IS MONDAY, DECEMBER 2, 2019.**

Res No. 1

November 7, 2019

To: Members of City Council  
From: Joseph M. Butler, Jr., Mayor  
Subject: Appointment to the Transportation Commission,  
Adam D. Ruppe

Council Member Henry-Wilkinson and I met with Mr. Ruppe today, and he has agreed to serve on the Transportation Commission.

Attached for City Council consideration is a resolution appointing him to a three-year term expiring on April 1, 2022 to fill the seat previously held by Susan Beaman.

# RESOLUTION

Page 1 of 1

Appointment to the Transportation  
Commission – Adam D. Ruppe

- Council Member COMPO, Sarah V.
- Council Member HENRY-WILKINSON, Ryan J.
- Council Member HORBACZ, Cody J.
- Council Member RUGGIERO, Lisa A.
- Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

***Introduced by***

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RESOLVED that the following individual is appointed to the Transportation Commission to fill the term previously vacated by Susan Beaman, such term expiring on April 1, 2022:

Adam D. Ruppe  
316 Butterfield Avenue  
Watertown, NY 13601

***Seconded by***



## CITY OF WATERTOWN, NEW YORK

HUMAN RESOURCES OFFICE

SUITE 205, CITY HALL

245 WASHINGTON STREET

WATERTOWN, NEW YORK 13601

Tel: (315) 785-7755

E-Mail: [mroy@watertown-ny.gov](mailto:mroy@watertown-ny.gov)

Res No. 2

To: Richard M. Finn  
City Manager

From: Matthew Roy  
HR Manager

Re: RFP for Drug and Alcohol Testing

Date: November 4, 2019

We have been informed by Occupational Medicine that effective January 1, 2020 they will no longer offer random testing services for the City of Watertown. Given this, we felt it prudent to issue an RFP for both our random and post accident drug and alcohol testing. Occupational Medicine ceased providing our after- hours post accident testing in late 2018. Since that time this testing has been provided by BOCES. In turn, BOCES uses Northern New York Occupational Health Services for it's MRO (Medical Review Officer) and for some after hours testing.

The RFP was issued to 6 area service providers, and advertised in the Watertown Daily Times. Proposals were received from 2 vendors, NNYOHS and WellNow Urgent Care. After an extensive financial review given the 2 firms different pricing structures, and given their familiarity with the City of Watertown drug and alcohol testing procedures, I am recommending that NNYOHS be awarded this contract. The contract will run for 3 years beginning January 1, 2020 and provides the option to renew for two additional one year contracts. Please place an agenda item on the November 18, 2019 City Council meeting for approval of this contract.

ACTION: City Manager recommends approval.

**RESOLUTION**

Page 1 of 1

Accepting Proposal for Drug  
And Alcohol Testing

Council Member COMPO, Sarah V.  
 Council Member HENRY-WILKINSON, Ryan J.  
 Council Member HORBACZ, Cody J.  
 Council Member RUGGIERO, Lisa L.  
 Mayor BUTLER, Jr., Joseph M.  
 Total .....

YEA	NAY

***Introduced by***

\_\_\_\_\_

WHEREAS the City Purchasing Department has advertised and received sealed proposals for drug and alcohol testing for safety sensitive employees of the City of Watertown effective January 1, 2020, through December 31, 2022, with the option to renew for two additional one-year contracts, and

WHEREAS proposals were sent to six (6) area service providers, with two (2) proposals submitted to the Purchasing Department, and

WHEREAS on Thursday, October 17, 2019, at 11:00 a.m., the proposals received were opened, and

WHEREAS City Purchasing Manager Dale Morrow reviewed the proposals received with the Human Resource Department and the Public Works Department, and it is their recommendation that the City Council accept the proposal submitted by NNY Occupational Health Services,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown accepts the proposal of NNY Occupational Health Service as the lowest qualifying provider meeting City specifications, and

BE IT FURTHER RESOLVED that City Manager Richard M. Finn is hereby authorized and directed to sign all contracts associated with implementing the award to NNY Occupational Health Services.

***Seconded by***



# CITY OF WATERTOWN, NEW YORK

CITY HALL

245 WASHINGTON STREET

WATERTOWN, NEW YORK 13601-3380

**RFP 2019-05**

## Proposal Response Form

INDICATE IN THE SPACES BELOW THE COSTS PER TEST OR SERVICE FOR EACH ITEM AND QUANTITY SEPARATE DURING HOURS AND AFTER HOURS TESTING

### DURING HOURS TESTING

# OF EMPLOYEES	DRUG TESTING COLLECTION AND ANALYSIS	ALCOHOL	MRO/SERVICES
75			Verification \$5 / test
100			
125			
150			⊕ \$40 / non negative verification
<b>PER INDIVIDUAL COST</b>			

### AFTER HOURS TESTING

# OF EMPLOYEES	DRUG TESTING COLLECTION AND ANALYSIS	ALCOHOL	MRO/SERVICES
75			
100			
125			
150			N/A
<b>PER INDIVIDUAL COST</b>			

**Proposal submittals must include:**

- Exceptions or Limitations to Proposal Specifications and Conditions
- Non-Collusion Certificate
- Certification of Sexual Harassment Prevention in the Workplace
- Certification of Compliance with the Iran Divestment Act
- All Addenda Issued for this RFP



# CITY OF WATERTOWN, NEW YORK

CITY HALL  
 245 WASHINGTON STREET  
 WATERTOWN, NEW YORK 13601-3380

## RFP 2019-05 Proposal Response Form

INDICATE IN THE SPACES BELOW THE COSTS PER TEST OR SERVICE FOR EACH ITEM AND QUANTIFY SEPARATE DURING HOURS AND AFTER HOURS TESTING

DURING HOURS TESTING				MIRO/SERVICES
# OF EMPLOYEES	DRUG TESTING COLLECTION AND ANALYSIS	ALCOHOL		
75		/		<i>Rapid/Instant</i> ⊕ \$50/hour on-site fee \$0.60/mile
100				
125				
150				
PER INDIVIDUAL COST	\$55			

AFTER HOURS TESTING				MIRO/SERVICES
# OF EMPLOYEES	DRUG TESTING COLLECTION AND ANALYSIS	ALCOHOL		
75		/		⊕ \$50/hour 4pm-10pm \$65/hour 10pm-4am \$0.60/mile
100				
125				
150				
PER INDIVIDUAL COST	\$55			

**Proposal submittals must include:**

- Exceptions or Limitations to Proposal Specifications and Conditions
- Non-Collusion Certificate
- Certification of Sexual Harassment Prevention in the Workplace
- Certification of Compliance with the Iran Divestment Act
- All Addenda Issued for this RFP



CITY OF WATERTOWN, NEW YORK

CITY HALL  
 245 WASHINGTON STREET  
 WATERTOWN, NEW YORK 13601-3380

RFP 2019-05

Proposal Response Form

INDICATE IN THE SPACES BELOW THE COSTS PER TEST OR SERVICE FOR EACH ITEM AND QUANTITY SEPARATE DURING HOURS AND AFTER HOURS TESTING

DURING HOURS TESTING ⊕ \$50.60/mile  
⊕ \$50/hour on-site fee

# OF EMPLOYEES	DRUG TESTING COLLECTION AND ANALYSIS	ALCOHOL	MRO/SERVICES
75			
100			
125			
150			
PER INDIVIDUAL COST	\$ 70	\$ 35 ⊕ \$15 confirmation	included

AFTER HOURS TESTING ⊕ \$50/hour 4pm-10pm  
⊕ \$65/hour 10pm-4am  
\$0.60/mile

# OF EMPLOYEES	DRUG TESTING COLLECTION AND ANALYSIS	ALCOHOL	MRO/SERVICES
75			
100			
125			
150			
PER INDIVIDUAL COST	\$ 70	\$ 35 ⊕ \$15 confirmation	included

Proposal submittals must include:

- Exceptions or Limitations to Proposal Specifications and Conditions
- Non-Collusion Certificate
- Certification of Sexual Harassment Prevention in the Workplace
- Certification of Compliance with the Iran Divestment Act
- All Addenda Issued for this RFP

Annual  
 C/TPA  
 Administrative  
 Fee \$ 300/year



### **Drug and Alcohol Testing Service Agreement**

This agreement is made between NNY Occupational Health Services (D. Peter VanEenaam, MD MS PLLC) at 20104 State Route 3 Watertown, NY 13601, hereinafter referred to as PROVIDER, and

\_\_\_\_\_ hereinafter referred to as COMPANY, on this date, \_\_\_\_\_. This agreement shall automatically renew for additional one year periods at the end of its term unless either party has given written notice of intent to change the terms of the agreement no less than sixty (60) days prior to the renewal date.

#### WHEREAS:

PROVIDER provides drug and alcohol testing services to companies to support workplace drug and alcohol testing programs and policies; and

COMPANY has a policy for alcohol and drugs of abuse testing of applicants and/or employees and requires alcohol and drug testing services from PROVIDER.

The parties both recognize that federal, state, and local laws may apply to services covered herein. In particular, certain services may be performed according to the regulations established and governed by the Department of Transportation (DOT). Both parties agree to assure, to the best of their ability, that services provided are rendered according to all applicable laws and regulations.

Therefore, in consideration of the premises and the mutual promises, covenants, and agreements contained herein, the parties agree as follows:

## **Scope of Services**

Alcohol tests are tests performed using screening and evidential testing devices (EBT) by certified breath alcohol technicians (BATs) according to COMPANY policy and/or federal, state, or local regulations. Confirmation testing performed on all results 0.02 or greater.

Drug tests are tests performed using chain-of-custody collection and/or instant drug test processing according to COMPANY policy and/or federal, state, or local regulations. Collection is performed by certified collectors. Chain-of-custody collections are sent to certified testing laboratories for analysis and results are reviewed and verified by a certified Medical Review Officer (MRO).

## **Company Responsibilities**

COMPANY will provide PROVIDER with the most recent applicable alcohol and/or drug testing policies of COMPANY.

COMPANY will provide PROVIDER with an employee list with applicable information for each employee to be included in the alcohol and/or drug testing program. This information shall be updated every three (3) months or sooner, if applicable.

COMPANY will designate a confidential representative (DER) and an alternate confidential representative to whom the PROVIDER will report test results and discuss or report other information. Owner-Operator companies may designate significant others as DER. This information shall be updated every three (3) months or sooner, if applicable.

COMPANY authorizes PROVIDER to request specific information or to order additional tests, as necessary or appropriate related to tests performed for COMPANY; COMPANY agrees to pay for additional costs and charges related to such information request or additional testing performed.

COMPANY acknowledges that performance of necessary verification procedures may be dependent upon cooperation by COMPANY representatives, tested individuals, and/or personal physicians and/or health care providers that may possess vital medical history information.

## **Provider Responsibilities**

PROVIDER will maintain facilities and personnel adequate to the performance of services agreed to be provided to the COMPANY. In particular, PROVIDER will maintain trained and certified personnel qualified to perform services provided.

PROVIDER will, through the use of a DrugPak software program, select employees for random drug and/or alcohol testing, if applicable. Notification of these selections will be made by electronic transmission only to COMPANY confidential representatives.

\*\*Owner-operator/Self-employed companies will be notified of random selection by phone. Selected owner-operators will have two (2) hours to report to the collection site for specimen collection. Failure to appear within those two (2) hours will constitute a refusal to test.

Reporting results of positive drug and/or alcohol tests to COMPANY by PROVIDER will be by phone to designated confidential contact initially, with follow-up electronic transmission. All negative drug and/or alcohol test results will be reported by electronic transmission. All DOT and other federally regulated testing original paperwork will be sent to COMPANY by PROVIDER via mail for their records.

PROVIDER will maintain, in a secure location with controlled access, all dated records and information for minimum time periods according to the schedule below and as applicable related to services provided by PROVIDER to COMPANY. Paperwork is maintained by PROVIDER on behalf of COMPANY. PROVIDER will provide requested documentation to the COMPANY within three (3) days of request made by DOT, other federal agency, or COMPANY.

#### FIVE YEARS

- Alcohol tests > 0.02
- Positive drug tests with MRO documentation
- Refusal to test documentation
- Medical explanation of shy bladder (inability to provide specimen) documentation
- Calibration documentation for EBTs
- BAT/Collector training certifications

#### ONE YEAR

- Alcohol tests <0.02
- Negative drug test results

#### **Fees and Payment**

Fees for services provided by PROVIDER to COMPANY will be in accordance with the FEES SCHEDULE hereby incorporated by attachment into this agreement.

The price for services rendered under this agreement are subject to change without notice.

PROVIDER will invoice COMPANY for all services provided on a monthly basis. Payment terms are net thirty (30) days after the date of any invoice.

PROVIDER

COMPANY

Authorized Signature: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_



**NNY Occupational Health Services  
D. Peter VanEenenaam, MD MS PLLC  
20104 State Route 3  
Watertown, NY 13601  
Phone (315) 779-7060  
Fax (315) 779-7065  
[NNYOHS@gmail.com](mailto:NNYOHS@gmail.com)**

### **MRO Service Agreement**

**THIS AGREEMENT** is made between NNY Occupational Health Services (D. Peter VanEenenaam, MD MS PLLC), located at 20104 State Route 3 Watertown, NY 13601 hereinafter referred to as **MRO**, and \_\_\_\_\_, a company having an address at \_\_\_\_\_, hereinafter referred to as **CLIENT**.

#### **WHEREAS:**

**MRO** provides medical review officer services to companies to support workplace drug testing programs and policies; and

**CLIENT** has a policy for drugs of abuse testing of applicants and/or employees and requires medical review officer services which **MRO** can provide.

In consideration of the mutual covenants and promises set forth, the parties hereby enter into this agreement, the terms and conditions of which shall apply from the execution date of this contract.

**NOW THEREFORE**, in consideration of the premises and the mutual promises, covenants, and agreements contained herein, the parties agree as follows:

## ARTICLE I. STATEMENT OF WORK

### SECTION 1. SCOPE OF SERVICES

- A. The primary medical review officer responsibilities shall be carried out by D. Peter VanEenenaam, MD.
- B. The primary role of the medical review officer is to review and interpret confirmed non-negative test results obtained through the **CLIENT's** testing program.
- C. The **MRO** will follow the policies and procedures of the U.S. Department of Transportation (DOT) (49 CFR Part 40-Procedures for Transportation Workplace Drug and Alcohol Testing Programs) for all urine donors who have been identified by the client as covered under the DOT program.
- D. For verification of drug tests that are not covered under the DOT program, the **MRO** will substantially follow federal policies and procedures with respect to verification of alternative medical explanations, unless notified by **CLIENT** that an alternative client policy or procedure is applicable. The **MRO** will not make any assessment of prescription drug use of a non-safety-sensitive employee, unless requested to do so by the **CLIENT**.

### SECTION 2. REPORTING RESULTS TO CLIENT

- A. The **MRO** may report to the **CLIENT's** "designated employer representative" (DER).
- B. **CLIENT** will provide **MRO** with the name and telephone number for a DER (and an alternate).
- C. The **MRO** will transmit results by phone or by fax to a secure fax machine, or electronically to the DER.
- D. A written notification/report will be forwarded upon completion of the **MRO's** review.

### SECTION 3. CONFIDENTIALITY

- A. In accordance with DOT regulations, the **MRO** will not disclose to any third party medical information provided by the individual to the **MRO** as a part of the testing verification process; except the **MRO** may disclose such information to the **CLIENT** when:  
The **MRO** has informed the employee, before obtaining medical information from the employee, that such information may be disclosed to third parties; or,
  - i. An applicable DOT regulation permits or requires such disclosure; or,
  - ii. In the **MRO's** reasonable medical judgement, the information could result in the employee being determined to be medically unqualified under an applicable DOT agency rule; or,
  - iii. In the **MRO's** reasonable medical judgement, the information indicates that continued performance by the employee could pose a significant safety risk; or,
  - iv. Disclosure is requested by the employee and the **MRO** is provided with a written request and release from the employee.

### SECTION 4. MRO RECORD KEEPING AND RECORD RETENTION

- A. The **MRO** shall be the custodian of individual's test results. The **MRO** shall maintain all dated records and notifications, identified by individual, for a minimum of five (5) years for verified non-negative test results.
- B. The **MRO** will not release individual test results to any person, without first obtaining specific written authorization from the tested individual, or as required by law or regulation.

## **SECTION 5. CLIENT RESPONSIBILITIES**

- A. When the **MRO** reports to the **CLIENT** that the **MRO** is unable to contact a donor for an interview, the **CLIENT** must contact the donor as soon as practicable and request the donor to contact the **MRO** within 24 hours.
- B. The **CLIENT** will provide the **MRO** with the most recent Drug and Alcohol Policy and Procedures of the Company.
- C. The **CLIENT** will designate a designated employer representative (DER) and an alternate to whom the **MRO** will report test results verbally and in writing.
- D. The **CLIENT** will designate a company representative and alternate whom the **MRO** will contact in cases where the **MRO** is unable to contact the employee for an interview.
- E. The **CLIENT** will notify **MRO** of any responsibilities with regard to the Company's Employee Assistance Program as it relates to drug and alcohol testing.
- F. The **CLIENT** represents that the means of obtaining results from the **MRO** (such as electronic or fax) will be secure and confidential, and that all results and information obtained from the **MRO** will be maintained confidentially. Such results and information will only be disclosed to individuals with a business need for the information.
- G. If the **CLIENT** selects the testing laboratory, the **CLIENT** will be responsible to assure that the laboratory is currently certified by the Department of Health and Human Services for urine drug testing, and arrange for all testing results to be sent directly to the **MRO**.
- H. If the **CLIENT** selects the provider of drug testing collections, the **CLIENT** is responsible for ensuring the collection practice meets all DOT requirements for drug testing.
- I. **CLIENT** is responsible for all additional laboratory costs for reanalysis and additional tests.

## **ARTICLE II. FEES**

### **SECTION 1. FEES AND PAYMENT**

#### **A. MRO Review**

**CLIENT** agrees to pay \$5 per **MRO** negative test review and report. This fee covers reporting results to the **CLIENT's** designated representative and record retention.

#### **B. MRO Verification**

**CLIENT** agrees to pay an additional \$40 per **MRO** verification of non-negative test results.

#### **C. MRO Professional Fees/Expert Witness Fee**

**CLIENT** agrees to pay in addition to the above charge for the services of the **MRO**, calculated at the rate of \$300 per hour, for time involved in program-related issues such as:

- i. The oversight and management of referral physicians with substituted specimens.
- ii. Performance of medical evaluations for shy bladder.
- iii. Audits by company or DOT.
- iv. Consultation with **CLIENT** on drug testing issues.
- v. Support of arbitration, grievance proceedings, workers' compensation hearings, unemployment security hearings, and

appeals, administrative proceedings and as necessary as an expert witness.

**D. Additional Required Laboratory Tests and Examinations**

The **MRO** will invoice **CLIENT** for the following services:

- i. Split-Specimen Analysis: DOT requires the **MRO** to provide the opportunity for each donor to have his or her split specimen reconfirmed at a second laboratory. The **MRO** cannot seek reimbursement from the donor for this testing.
- ii. Additional laboratory testing for adulteration, and isomers as required.
- iii. Physical examinations for clinical evidence of opiate abuse.
- iv. Assessment of shy bladder or shy lung situations.
- v. Evaluation of medical qualifications or medical fitness for duty.

**E. Payment Terms**

**MRO** will invoice **CLIENT** for all services provided on a monthly basis. Payment terms are net thirty (30) days after the date of any invoice. Overdue payments are subject to additional interest and service charges.

**ARTICLE III. GENERAL TERMS AND CONDITIONS**

**SECTION 1. TERM**

This agreement shall be in effect from the date of execution and be in effect for period of one (1) year. The responsibilities and obligations and liabilities shall survive the term of the agreement.

**SECTION 2. INDEPENDENT CONTRACTORS**

Both parties to this agreement are independent contractors, and nothing contained herein shall be construed to place the parties in the relationship of partners, joint venture, principal-agent or employer-employee, and neither party shall have the power to obligate or bind the other whatsoever beyond the terms of this agreement.

**SECTION 3. RESPONSIBILITY FOR COMPANY POLICY AND PROGRAM**

The parties understand and agree that **MRO** does not make any employee decisions for **CLIENT** such as hiring of applicants, termination, discipline or retention of any employee or former employee and that **CLIENT** has sole responsibility for all such decisions. **MRO** shall not be responsible for any damages resulting from acts or omissions of the **CLIENT** under the **CLIENT's** substance abuse policy.

**CLIENT** is responsible for maintaining the confidentiality of information reported by the **MRO**.

**SECTION 4. COMPLIANCE WITH FEDERAL AND STATE LAW**

**CLIENT** agrees to comply with and shall be responsible for all requirements of Federal, State, and local laws and regulations relating to substance abuse testing.

**SECTION 5. INDEMNIFICATION**

**CLIENT** shall indemnify, defend, and hold harmless **MRO**, **MRO's** directors, officers, agents, and employees, and each one of them, from and against any and all claims, suits, and damages of whatever nature made or asserted by a present or former employee or agent or applicant for employment of the **CLIENT**, of its parent, subsidiary or affiliate companies, arising out of or in any way related to services provided by the **MRO** under this Agreement.

**SECTION 6. SIGNIFICANT CHANGES**

If during the term of this Agreement there is a significant change in the requirements of the MRO, or other services covered under this agreement as the result of regulatory changes, or changes mandatory by Federal or State law, both parties agree to renegotiate the services and fees provided herein.

**SECTION 7. SECTION HEADINGS**

Section Headings contained in this Agreement are for reference purposes only and shall not affect, in any way, the meaning and interpretation of this Agreement.

**SECTION 8. SEVERABILITY**

If any provision of this Agreement is held to be illegal, invalid or unenforceable by a court of competent jurisdiction, the parties shall, if possible, agree on a legal, valid and enforceable substitute provision which is as similar in effect to the deleted provision as possible. The remaining portion of the Agreement not declared illegal, invalid or unenforceable shall, in any event, remain valid and effective for the term remaining unless the provision found illegal, invalid or unenforceable goes to the essence of the Agreement.

**SECTION 9. WAIVER**

The failure of either party to exercise or enforce any right conferred upon it under this Agreement shall not be deemed to be a waiver of any such right, nor to operate to bar the exercise or performance of any right at any time.

**SECTION 10. GOVERNING LAW**

The provisions of this Agreement shall be construed, interpreted and governed by the substantive laws of the State of New York, including all matter of construction, validity and performance but without giving effect to New York choice-of-law or conflict-of-law principles.

**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be executed as of the day and year executed below:

MRO: \_\_\_\_\_

CLIENT: \_\_\_\_\_

D. Peter VanEenaam, MD MS

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**CITY OF WATERTOWN, NEW YORK**  
DEPARTMENT OF ENGINEERING  
MEMORANDUM

Res No. 3

DATE: October 30, 2019

TO: Richard Finn, City Manager

FROM: Thomas Maurer, CE 2

SUBJECT: Authorizing Marchiselli Supplemental Aid Project Agreement – Supplemental #1, Contract No.D035666 : Massey Street, Coffeen Street & Court Street Bridges, PIN 775362, ROW Incidentals

At the October 2, 2017 meeting the City Council of the City of Watertown Authorizing Standard Federal Aid Highway And Marchiselli Aid Project Agreement, Massey Street, Coffeen Street and Court Street Bridge Rehabilitation Project, PIN 775362; D035666, Preliminary Engineering Design Phase.

During the preliminary design phase of the ADA sidewalk ramps portion of the Project it was determined that there is not enough existing R.O.W. on several street corners to construct the ramps to meet the ADA standards. Due to Federal Highway Administration (FHWA) rules before final design can be approved sufficient R.O.W. must be obtained.

Attached for City Council consideration is a Resolution approving Supplement #1 of Right-of-Way Acquisition Incidentals. Funding is provided by the Bond Ordinance approved by City Council at the July 15, 2019 meeting.

ACTION: City Manager recommends approval.

A handwritten signature in black ink, appearing to read "Richard Finn", written over the "ACTION:" line.

# RESOLUTION

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Authorizing Marchiselli Supplemental Aid Project Agreement – Supplemental #1, Contract No. D035666 : Massey Street, Coffeen Street, & Court Street Bridges, PIN 775362, ROW Incidentals

Council Member COMPO, Sarah V.  
Council Member HENRY-WILKINSON, Ryan J.  
Council Member HORBACZ, Cody J.  
Council Member RUGGIERO, Lisa A.  
Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

### *Introduced by*

WHEREAS a project for the reconstruction of Massey Street, Coffeen Street & Court Street Bridge, PIN 7755362, (the “Project”) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the cost of such program to be borne at the ratio of eligible costs at 80% federal funds and 20% non-federal funds, and

WHEREAS the City of Watertown desires to advance the Project by making a commitment of 100% of the federal and non-federal share of the costs of the Right-of-Way Acquisition Incidentals in the amount of \$15,000, and

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown authorizes the City Comptroller to pay in the first instance 100% of the federal and non-federal share of the costs of Right of Way Acquisition Incidentals and Preliminary, and

BE IT FURTHER RESOLVED that the sum of \$15,000 is hereby funded by the current bond ordinance and made available to cover the local cost of participation in the above phase of the Project, and

BE IT FURTHER RESOLVED that the City Comptroller is hereby authorized to pay in the first instance 100% of the federal and non-federal share of the costs associated with the phase of the projects listed above in the amount of \$15,000 from the bond ordinance, and

BE IT FURTHER RESOLVED that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the City Council of the City of Watertown shall convene as soon as possible to appropriate said excess amount immediately upon notification by the City Manager, and

# RESOLUTION

Page 2 of 2

Authorizing Marchiselli Supplemental Aid  
Project Agreement – Supplemental #1, Contract No.  
D035666 : Massey Street, Coffeen Street,  
& Court Street Bridges, PIN 775362,  
ROW Incidentals

- Council Member COMPO, Sarah V.
- Council Member HENRY-WILKINSON, Ryan J.
- Council Member HORBACZ, Cody J.
- Council Member RUGGIERO, Lisa A.
- Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

BE IT FURTHER RESOLVED that the City Manager of the City of Watertown, Richard Finn, is hereby authorized and directed to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid on behalf of the City of Watertown with the New York State Department of Transportation in connection with the advancement or approval of the project and providing for the administration of the project and the municipality’s first instance funding of project costs and permanent funding for the local share of federal aid eligible project costs and all project costs within appropriations that are not eligible, and

BE IT FURTHER RESOLVED that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the project, and

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

*Seconded by*



**MEMORANDUM**

October 10, 2019



Mr. Richard Finn, City Manager  
Watertown City Hall  
245 Washington Street, Room 302  
Watertown, NY 13601

RE: PIN775362-SUPPLEMENTAL AGREEMENT #1  
CONTRACT #: D035666  
PROJECT: Massey Street, Coffeen Street, & Court Street Bridges  
PHASE: Design and ROW Incidentals  
MUNICIPALITY: City of Watertown

Dear Mr. Finn:

Attached is Supplemental Agreement #1 which is required to add the ROW Incidentals Phase and to enable the City to receive Marchiselli funding for the ROW Incidentals.

Enclosed are two (2) complete copies of the Supplemental Agreement, titled: Supplemental Agreement No. 1 to 0035666. Each text package contains the following:

- Schedule "A" (Design and ROW Incidentals Phases)
- Sample Resolution

Also enclosed are seven (7) additional copies of the Signature Sheet (page 2).

To complete the Enclosed Agreement

The City completes the agreement by:

1. Sign and date all copies of the Signature Sheet (page 2) and have notarized the affirmation statement on the same page.
2. A Resolution authorizing 100% first instance payment of the ROW Incidentals Phase cost must be enacted by City and contain the Municipal Seal. Either embossed or foil self-adhesive seals are acceptable. Signatures on all copies of both the Signature Page and the Resolution should be in original ball point pen (*Blue Ink*).

Mr. Richard Finn, City Manager

Page 2

October 10, 2019

The Signature Sheet (page 2) requires the signature of the local official authorized to act on the City's behalf, and the signature of the City Attorney, each at the place indicated. The Acknowledgment Statement on Page 2 requires a Notary's signature and stamp affixed as indicated.

**Return to my office:**

1. One signed complete agreement.
2. Seven (7) signed signature sheets.
3. Eight (8) copies of the resolution.

Questions concerning this project should be addressed to Nancy Catalina, Local Program Liaison at 315-785-2300.

Sincerely,

Handwritten signature in blue ink that reads "C;J..M\_ci".

r Scott A. Docteur, P.E.

Director, Regional Planning & Program Mgmt.

Copy with Attachment:

Mr. Michael Delaney, City Engineer, City of Watertown

Kristopher H. Reff, Acting Program & Project Management Supervisor (Center File)

Nancy Catalina, Regional Local Program Liaison

Sponsor: **City of Watertown**  
 PIN: **775362** BIN: **2220220**  
 Comptroller's Contract No. **0035666**  
 Supplemental Agreement No. 1  
 Date Prepared: 10/3/19 By: (NAC)  
 Initials

Press F1 for instructions in the blank fields:

**SUPPLEMENTAL AGREEMENT No. 1 to 0035666** (Comptrollers contract No.)

This Supplemental 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

**City of Watertown** (the Sponsor)  
 Acting by and through the **the City Council**  
 with its office at **the Municipal Building, 245 Washington St., Watertown, NY 13601.**

This amends the existing Agreement between the parties in the following respects only (*check applicable categories*):

Amends a previously adopted Schedule A by (*check as applicable*):

- amending a project description
- amending the contract end date
  - amending the scheduled funding by:
    - adding additional funding (*check and enter the #phase(s) as applicable*):
      - adding phase 221 which covers eligible costs incurred on/after **3120/2019**
      - adding phase \_\_\_\_\_ which covers eligible costs incurred on/after   /  /
    - increasing funding for a project phase(s)
    - adding a pin extension
    - change from Non-Marchiselli to Marchiselli
    - deleting/reducing funding for a project phase(s)
      - other (adding Marchiselli for ROW Incidentals)

Amends a previously adopted Schedule "B" (Phases, Sub-phase/Tasks, and Allocation of Responsibility)

Amends a previously adopted Agreement by adding Appendix 2-S - Iran Divestment Act:

Amends the text of the Agreement as follows (*insert text below*):

Sponsor: City of Watertown  
PIN: 775362 BIN: 2220220  
Comptroller's Contract No. 0035666  
Supplemental Agreement No. 1  
Date Prepared: 10/3/19 By: (NAC)  
Initials

Press F1 for instructions in the blank fields:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

SPONSOR:

SPONSOR ATTORNEY:

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

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

Print Name: \_\_\_\_\_

Print **Name**: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF NEW YORK

)ss.:

COUNTY OF *Jefferson*

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/her 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

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.

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

Assistant Attorney General

Date: \_\_\_\_\_

COMPTROLLER'S APPROVAL:

By: \_\_\_\_\_ For the New York State  
Comptroller Pursuant to State  
Finance Law ' 112

**SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements  
NYSDOT/State-Local Agreement - Schedule A for PIN 7753.62**

JSC Municipal Contract #: 0035666 | Contract Start Date: 9/7/2017(mm1ctd/yyyy) Contract End Date: 6/16/2021(mm1ctct1yyyy)  
 Check, if date changed from the last Schedule A

Purpose:  Original Standard Agreement [8J Supplemental Schedule A No. 1  
 Agreement Type: [8J Locally Administered Municipality/Sponsor (Contract Payee): City of Watertown  
 Other Municipality/Sponsor (if applicable):

State Administered List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies.  
 Municipality: % of Cost share  
 Municipality: % of Cost share  
 Municipality: % of Cost share

Authorized Project Phase(s) to which this Schedule applies: [8J PE/Design [8J ROW Incidentals  
 ROW Acquisition  Construction/CI/CS

Work Type: HWY RESURF | County (If different from Municipality): Jefferson

Marchiselli Eligible [gJ Yes  No (Check, if Project Description has changed from last Schedule A):  
 Project Description: Massey Street, Coffeen Street, & Court Street

Marchiselli Allocations Approved FOR ALL PHASES All totals will calculate automatically.

Check box to indicate change from last Schedule A	State Fiscal Year(s)	Project Phase			TOTAL
		PE/Design	ROW (RI & RA)	Construction/CI/CS	
	Cumulative total for all prior SFYs	\$15,000.00	\$0.00	\$0.00	\$15,000.00
	Current SFY 19/20	\$22,500.00	\$6,000.00	\$759,000.00	\$787,500.00
	Authorized Allocations to Date	\$37,500.00	\$6,000.00	\$759,000.00	\$802,500.00

**A. Summary of allocated MARCHISELLI Program Costs FOR ALL PHASES** For each PIN Fiscal Share below, show current costs on the rows indicated as "Current.". Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.

PIN Fiscal Share	"Current" or "Old" entry indicator	Federal Funding	Total Costs	FEDERAL Participating Share	STATE MARCHISELLI Match	LOCAL Matching Share	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
7753.62.121	Current	NHPP (80%)	\$100,000.00	\$80,000.00	\$15,000.00	\$5,000.00	\$0.00
	••		00,000.00				\$0.00
7753.62.221	Current	NHPP (80%)	\$15,000.00	\$12,000.00	\$2,250.00	\$750.00	\$0.00
	••		0.00			\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	••		0.00			0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	••		0.00			0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	••		0.00			0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	••		0.00			\$0.00	\$0.00
<b>TOTAL CURRENT COSTS:</b>			\$115,000.00	\$92,000.00	\$17,250.00	\$5,750.00	\$ 0.00

NYS DOT/State-Local Agreement - Schedule A

**3. Summary of Other (including Non-allocated MARCHISELLI) Participating Costs FOR ALL PHASES** For each PIN Fiscal Share, show current costs on the rows indicated as "Current.". Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.

Other PIN Fiscal Shares	'Current' or 'Old' entry indicator	Funding Source	TOTAL	Other FEDERAL	Other STATE	Other LOCAL
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
<b>TOTAL CURRENT COSTS:</b>			\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

2. Local Deposit(s) from Section A:	\$ 0.00
Additional Local Deposit(s)	\$
Total Local Deposit(s)	\$ 0.00

3. Total Project Costs All totals will calculate automatically.

Total FEDERAL Cost	Total STATE MARCHISELLI Cost	Total OTHER STATE Cost	Total LOCAL Cost	Total ALL SOURCES Cost
\$92,000.00	\$17,250.00	\$ 0.00	\$5,750.00	\$115,000.00

4. Point of Contact for Questions Regarding this Schedule A (Must be completed)	Name: <u>Nancy Catalina</u> Phone No: 315-785-2300
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See Agreement (or Supplemental Agreement Cover) for required contract signatures.



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# SAMPLE RESOLUTION

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SAMPLE RESOLUTION BY MUNICIPALITY  
(Locally Administered Project)  
RESOLUTION NUMBER: \_\_\_\_\_  
—

**Authorizing the implementation, and funding in the first instance 100% of the federal-aid and State "Marchiselli" Program-aid eligible costs, of a transportation federal-aid project, and appropriating funds therefore.**

WHEREAS, a Project for the \_\_\_\_\_ P.I.N. \_\_\_\_\_ (the Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of \_\_\_\_\_ % Federal funds and \_\_\_\_\_ % non-federal funds; and

WHEREAS, the \_\_\_\_\_ of \_\_\_\_\_ desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of \_\_\_\_\_

NOW, THEREFORE, the \_\_\_\_\_ Board, duly convened does hereby

RESOLVE, that the \_\_\_\_\_ Board hereby approves the above-subject project; and it is hereby further

RESOLVED, that the \_\_\_\_\_ Board hereby authorizes the \_\_\_\_\_ of \_\_\_\_\_ to pay in the first instance 100% of the federal and non-federal share of the cost of \_\_\_\_\_ work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \_\_\_\_\_ is hereby appropriated from \_\_\_\_\_ [or, appropriated pursuant to \_\_\_\_\_ and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the \_\_\_\_\_ of \_\_\_\_\_ shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the \_\_\_\_\_ thereof, and it is further

RESOLVED, that the \_\_\_\_\_ of the \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_ be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the \_\_\_\_\_ of \_\_\_\_\_ with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project. and it is further

RESOLVED, this Resolution shall take effect immediately.

ACQUISITION MAP & PARCEL NUMBER	REPUTED OWNER	TAX ACCOUNT NUMBER	ACQUISITION TYPE	ACQUISITION SIZE ±			REMARKS
				PURPOSE	SQUARE FEET	ACRES	
	TR MINI MART INC	7-04-107.000	TE	SIDEWALK	21.26	0.00049	
	SPERLING FAMILY DECEDENTS	7-05-101.000	PE	PED POLE/SIDEWALK	9.70	0.00022	
	FRANK D GIORDANELLI	7-07-304.000	PE	SIDEWALK	8.12	0.00019	
	PAVEL FABIANEK	7-07-314.000	PE	SIDEWALK	40.89	0.00094	
	KATHLEEN BURNS AMELIO	7-08-217.000	PE	SIDEWALK	20.14	0.00046	
	LETTIERE FAMILY ENTERPRISES	7-07-319.100	TE	SIDEWALK	7.62	0.00017	
	WATERTOWN SPRING SERVICES INC	7-10-101.000	TE	SIDEWALK	3.01	0.00007	
	MICHAEL WILSON	7-08-103.000	PE	SIDEWALK	8.26	0.00019	
	MICHAEL WILSON	7-08-103.001	TE	SIDEWALK	8.45	0.00019	
	FRANK GIORDANELLI	7-09-108.000	PE	SIDEWALK	51.00	0.00117	
	RONALD J. TARZA	7-08-207.001	TE	SIDEWALK	87.76	0.00201	
	RONALD J. TARZA	7-08-207.000	PE	SIDEWALK	20.83	0.00048	
	COLD BLACK RIVER LP	7-16-101.000	PE	SIDEWALK	73.05	0.00168	
	PAUL A. SIMMONS	7-16-106.000	PE	SIDEWALK	49.51	0.00114	
	CARBONES COFFEEEN ST. PLAZA INC.	7-15-216.000	TE	SIDEWALK	18.19	0.00042	
	PAULA J. AMATO LLC	7-16-106.001	TE	SIDEWALK	6.70	0.00015	
	BERNARD J. TUFO JR.	7-17-101.000	PE	SIDEWALK	56.04	0.00129	
	SHAWN CAPELLA SMILEY	7-17-107.000	PE	SIDEWALK	95.73	0.00220	
	DONALD W. RICK	8-19-123.000	TE	SIDEWALK			
	ROSALIE P. CAVISE	8-11-112.000	TE	SIDEWALK			
	RANDY J. ELIE	8-09-122.000	TE	SIDEWALK/PAVING			
	DANIEL C. ANTHONY	8-21-304.000	PE	PED POLE/SIDEWALK	50.28	0.00115	
	FAIRGROUNDS INN INC.	8-21-312.001	TE	SIDEWALK			
	CHARLES J. WISCHOFF	8-15-111.000	PE	SIDEWALK	40.57	0.00093	
	FOCAL POINT PROPERTIES LLC	8-16-121.000	PE	SIDEWALK	80.98	0.00186	
	WAYNE R. WOODRUFF	8-32-201.000	TE	SIDEWALK	10.87	0.00025	
	DALE S. PORTER	8-18-217.000	TE	SIDEWALK	3.32	0.00008	
	AUGUSTINE A. ROMEO	8-18-314.000	TE	SIDEWALK	19.84	0.00046	
	COUNTY OF JEFFERSON	8-36-101.110	PE	SIDEWALK/PAVING	60.53	0.00139	
	COUNTY OF JEFFERSON	8-36-101.110	TE	SIDEWALK/PAVING	1515.15	0.03478	
	R FRANCIS PANGALLO	8-16-116.000	PE	SIDEWALK	20.47	0.00047	
	HOLE BROTHERS HOLDINGS LLC	7-08-201.000	TE	SIDEWALK	15.56	0.00036	
	RONALD LIGHTHOLDER	10-03-101.000	PE	SIDEWALK	60.29	0.00138	
	MASSEY STREET LLC	7-04-118.000	PE	SIDEWALK	11.62	0.00027	
	STEWART'S SHOPS CORP	7-06-119.100	PE	SIDEWALK	54.36	0.00125	
	COR ARSENAL STREET COMPANY LLC	10-02-101.000	TE	SIDEWALK	94.98	0.00218	
	RONALD J. KOCSI	10-05-215.000	TE	SIDEWALK	18.12	0.00042	
	WGS HOUSING ARSENAL ASSOC.	8-20-101.100	TE	SIDEWALK	5.39	0.00012	
	CITY OF WATERTOWN	8-22-101.100	TE	SIDEWALK/PAVING	741.55	0.01702	
	CITY OF WATERTOWN	8-22-101.100	TE	SIDEWALK/PAVING	1768.43	0.04055	
	CITY OF WATERTOWN	8-22-101.100	PE	SIDEWALK/PAVING			
	CITY OF WATERTOWN	8-22-101.100	TE	GRADING	14.00	0.00032	
	CITY OF WATERTOWN	7-03-311.000	PE	SIDEWALK	109.05	0.00250	

Total Parcel Area S.F. (+/-)

Percent of Total Property Acq. Represents

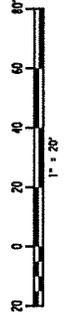
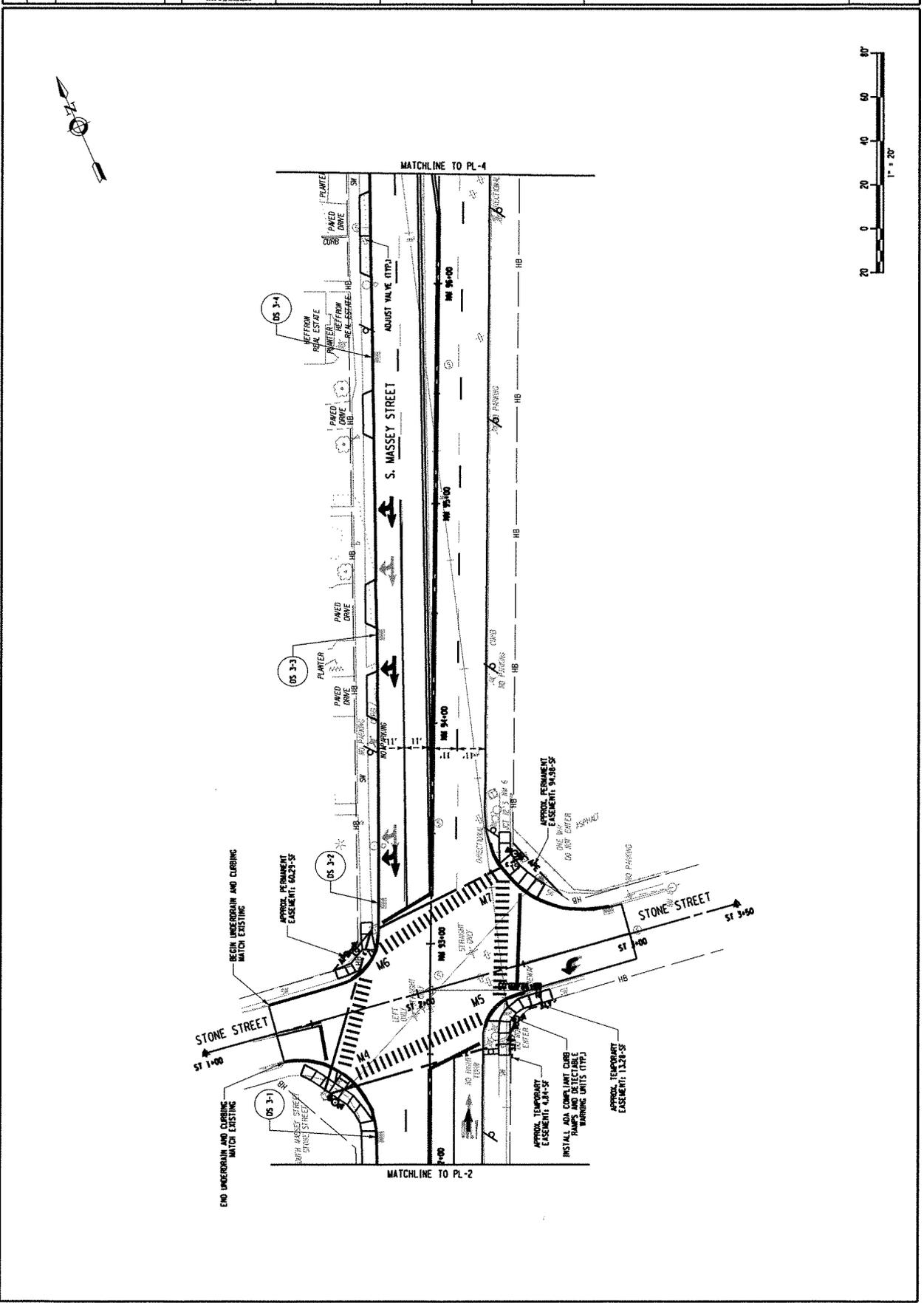
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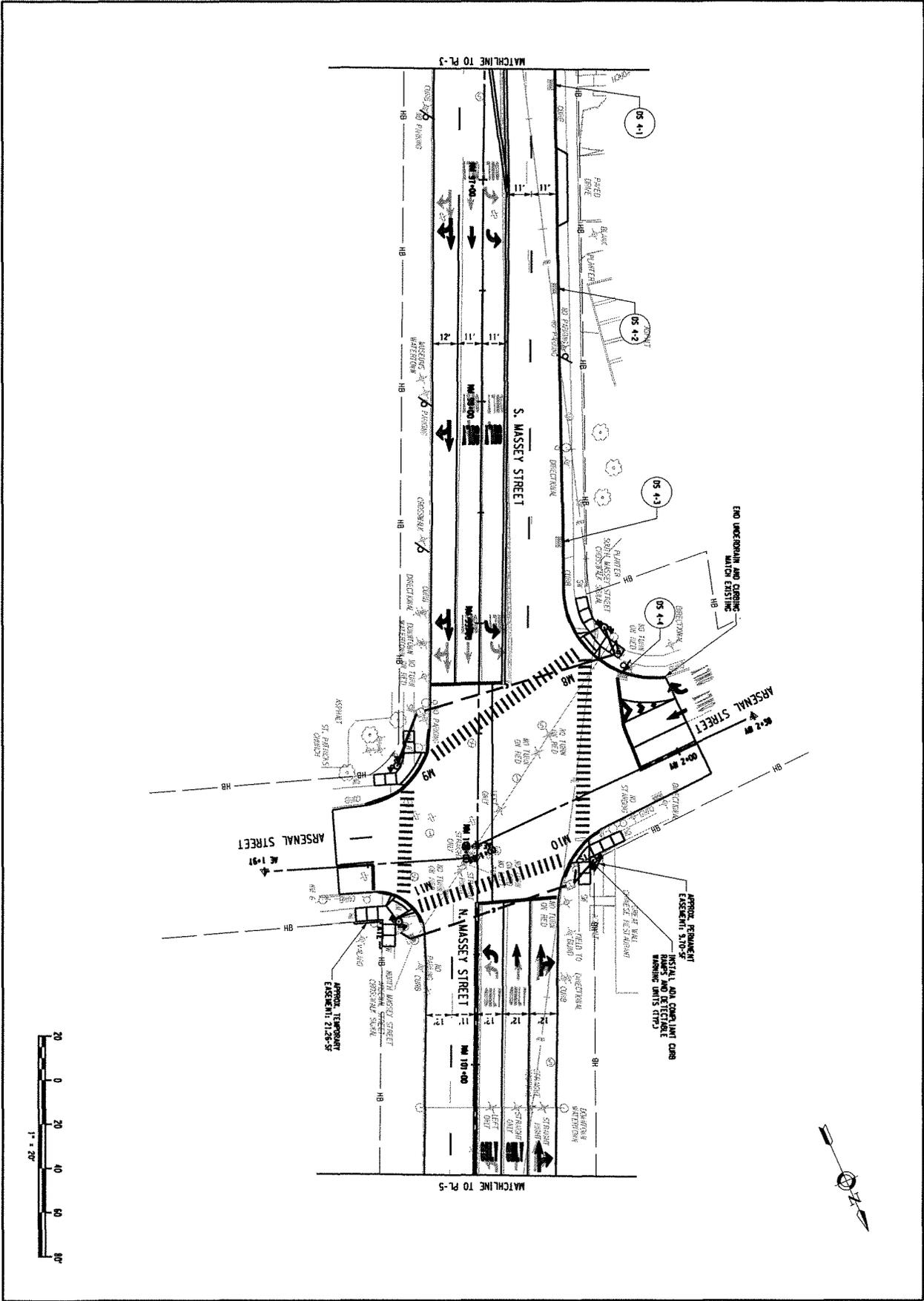
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288 ARSENAL STREET  
312 ARSENAL STREET  
330 COFFEEEN STREET  
400 COFFEEEN STREET  
403 COFFEEEN STREET  
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303 HOWK STREET  
150 MASSEY STREET S  
222 MASSEY STREET N  
229 MASSEY STREET N  
218 STONE STREET  
251 STONE STREET  
207 WEALTHA AVENUE  
615 WILLIAM FIELD DRIVE  
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615 WILLIAM FIELD DRIVE

PROJECT: MASSEY STREET, COFFEE STREET & COURT STREET BRIDGE PROJECT CITY OF WATERLOO, JEFFERSON COUNTY, NEW YORK PIN 1753.82		TITLE OF DRAWING: PROPOSED ROADWAY PLANS	
DRAWN BY: C. CLARK		DATE:	
CHECKED BY: T. FALLON		REV:	
PROJECT MANAGER: T. FALLON		DESCRIPTION:	
151017 FARGESING		1" = 20' SCALE	
12/20/18 REVISION		12/20/18 DEC 2018	
7 COMMENTS TO THE CLIENT: ALL DIMENSIONS ARE IN FEET AND INCHES. DIMENSIONS ARE TO BE TAKEN FROM THE CENTERLINE OF THE ROADWAY UNLESS OTHERWISE NOTED. ALL DIMENSIONS ARE TO BE TAKEN FROM THE CENTERLINE OF THE ROADWAY UNLESS OTHERWISE NOTED. ALL DIMENSIONS ARE TO BE TAKEN FROM THE CENTERLINE OF THE ROADWAY UNLESS OTHERWISE NOTED.		1 DESCRIPTION:	
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3 DATE:		5 DESCRIPTION:	
2 DATE:		6 DESCRIPTION:	
1 DATE:		7 DESCRIPTION:	

PL-3  
 SHEET XX OF 38





PROJECT  
 MASSEY STREET, COFFEEN STREET & COURT STREET  
 BRIDGE PROJECT  
 CITY OF WATERTOWN, JEFFERSON COUNTY, NEW YORK  
 PIN 7753.02

TITLE OF DRAWING  
 PROPOSED ROADWAY PLANS



EA PROJECT NO.  
 181017

PROJECT MANAGER  
 T. FAULKNER

DRAWN BY  
 C. CLARK

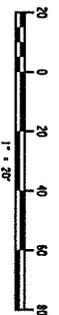
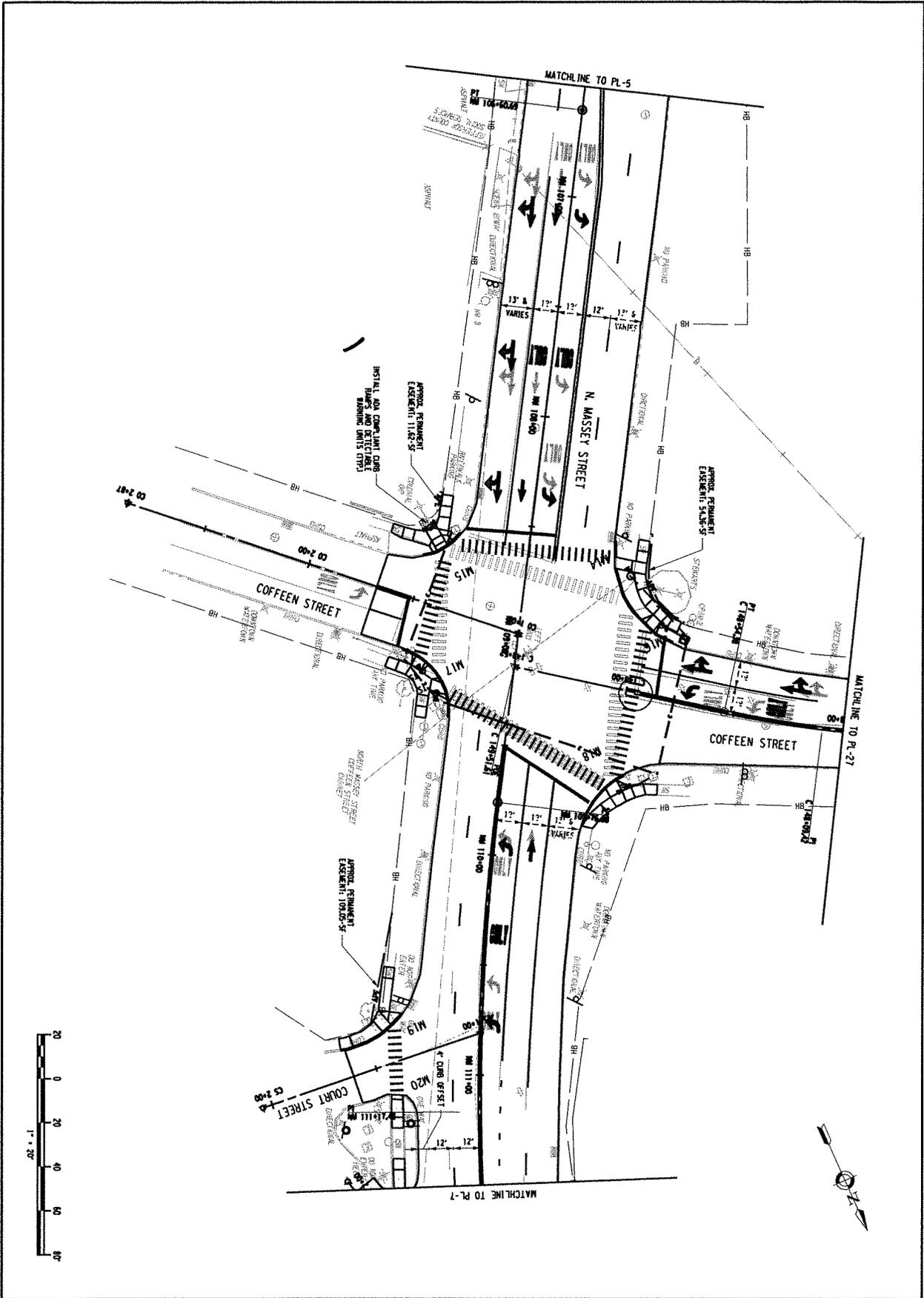
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ISSUE DATE  
 DEC. 2016

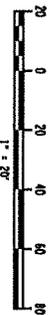
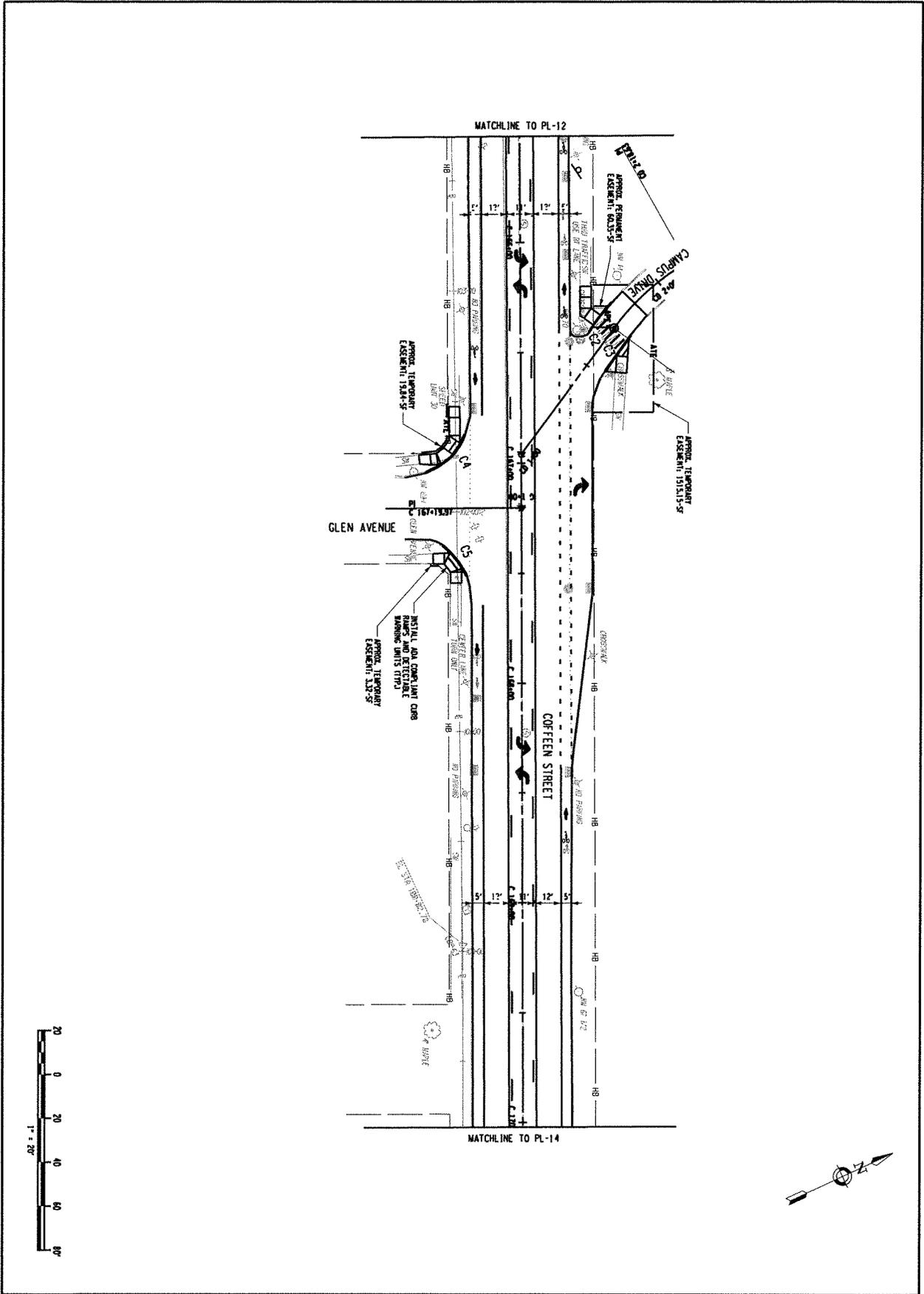
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DATE PLOTTED  
 10/2/2016

SHEET NO. OF 39



SHEET NO. OF 36 <b>PL-6</b> DRAWING NO.	PROJECT MASSEY STREET, COFFEEN STREET & COURT STREET BRIDGE PROJECT CITY OF WATERTOWN, JEFFERSON COUNTY, NEW YORK PIN 7753.82	 WWW.FISHERASSOCIATES.COM	EA PROJECT NO. 181017 PROJECT MANAGER T. FAULKNER DRAWN BY C. CLARK SCALE 1" = 20'	COPYRIGHT © 2014 FISHER ASSOCIATES P.E., L.S., L.A., D.P.C. Note: This drawing is the property of Fisher Associates, P.E., L.S., L.A., D.P.C. and is to be used only for the project and location specified hereon. It is not to be used for any other project or location without the written consent of Fisher Associates, P.E., L.S., L.A., D.P.C. It is the responsibility of the user to verify all dimensions and conditions shown on this drawing. The user shall be responsible for any errors or omissions on this drawing. The user shall be responsible for any changes or modifications to this drawing. The user shall be responsible for any delays or cancellations of this drawing. The user shall be responsible for any costs or expenses incurred by Fisher Associates, P.E., L.S., L.A., D.P.C. as a result of the user's actions on this drawing.	7 6 5 4 3 2 1 REV	ISSUE DATE DEC. 2018	DESCRIPTION DATE BY
	TITLE OF DRAWING PROPOSED ROADWAY PLANS		DATE BY				



**PL-13**  
 SHEET XX OF 38

**PROJECT**  
 MASSEY STREET, COFFEEN STREET & COURT STREET  
 BRIDGE PROJECT  
 CITY OF WATERTOWN, JEFFERSON COUNTY, NEW YORK  
 PIN 7753.62

**TITLE OF DRAWING**  
 PROPOSED ROADWAY PLANS



**PROJECT NO.**  
 181017

**PROJECT MANAGER**  
 T. FAULKNER

**DRAWN BY**  
 C. CLARK

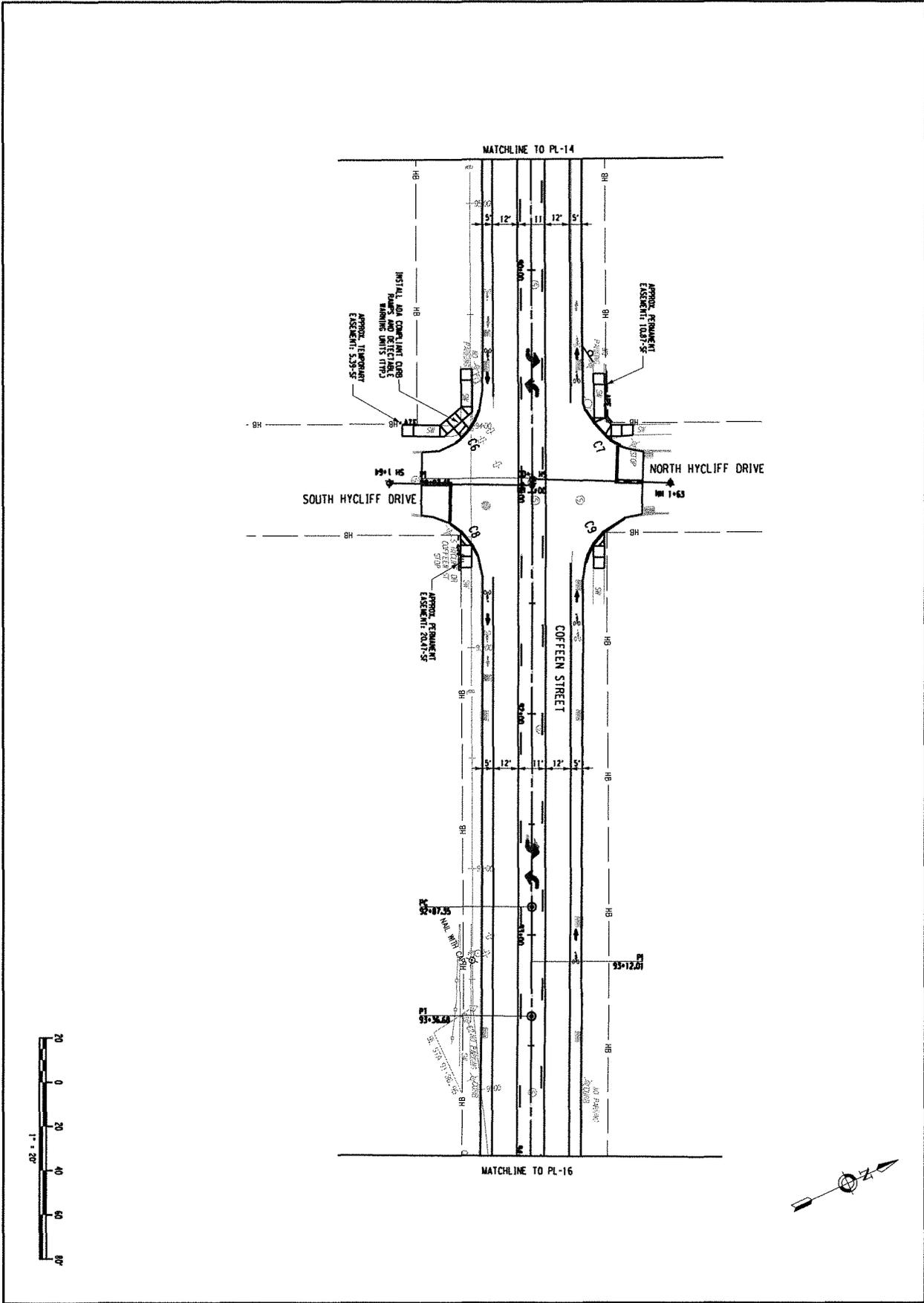
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**ISSUE DATE**  
 DEC. 2016

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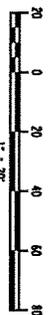
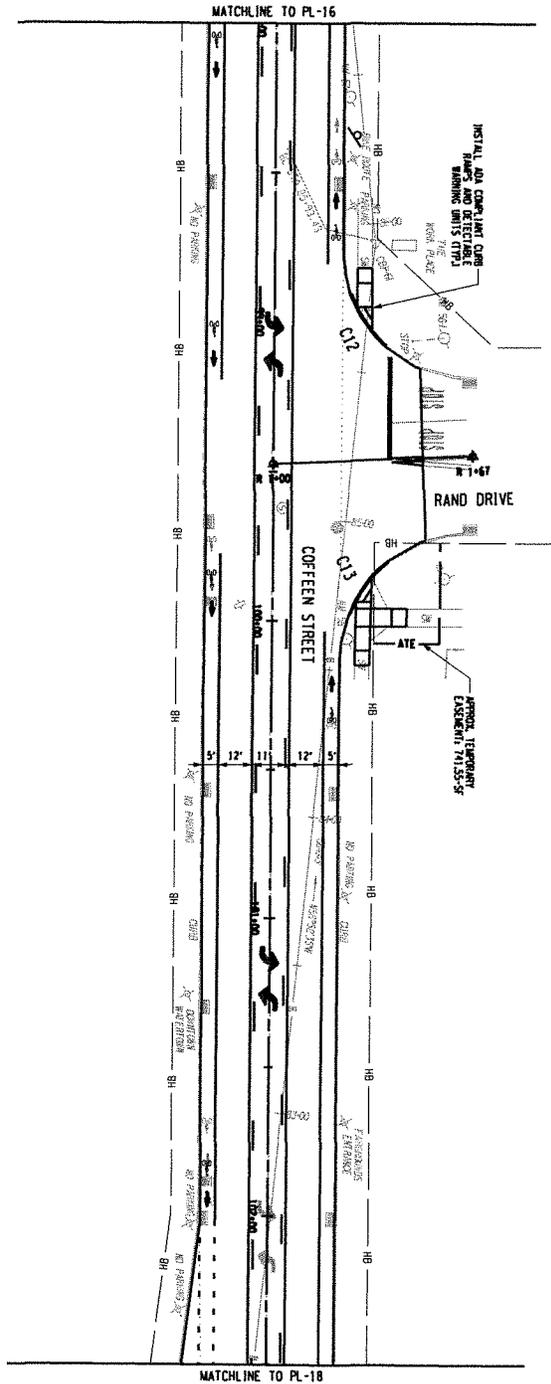
2016 was filed in Jefferson County, New York, under the name of T. Faulkner, P.E., L.S., L.A., D.P.C. as the author of the drawings, specifications, and reports herein. It is hereby acknowledged that the drawings, specifications, and reports herein are the work of the author and the work of the author and the work of the author and the work of the author.

REV	DESCRIPTION	DATE	BY
7			
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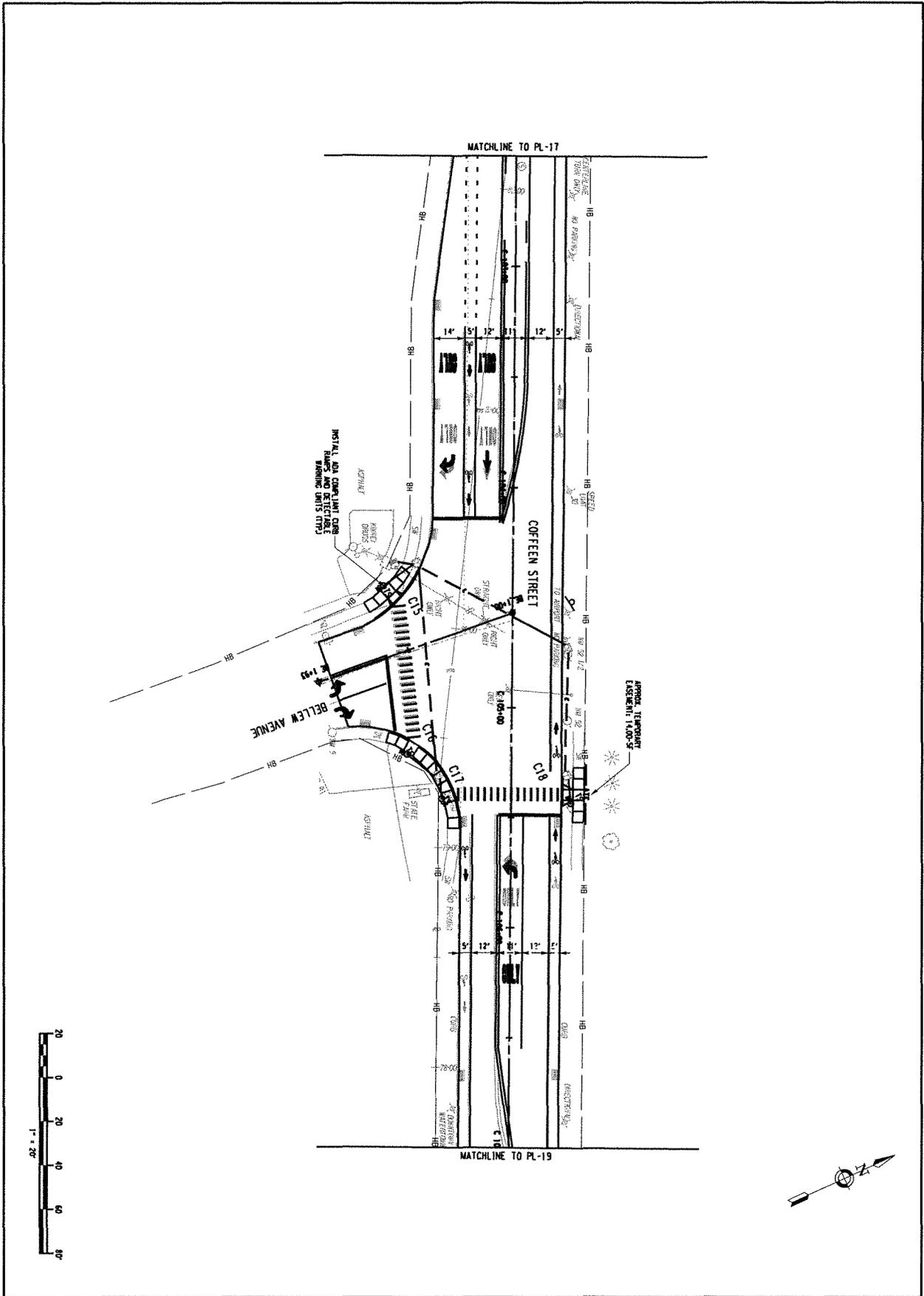


SHEET: 302 OF 30 <b>PL-15</b> DRAWING NO.	PROJECT MASSEY STREET, COFFEEN STREET & COURT STREET BRIDGE PROJECT CITY OF WATERTOWN, JEFFERSON COUNTY, NEW YORK PIN 7753.62	<b>FISHER</b> ASSOCIATES WWW.FISHERASSOC.COM	FA PROJECT NO. 181017	COPYRIGHT © 2018 FISHER ASSOCIATES P.E., L.S., L.A., D.P.C.	7			
	TITLE OF DRAWING PROPOSED ROADWAY PLANS		PROJECT MANAGER T. FAULKNER	DRAWN BY C. CLARK	ISSUE DATE DEC. 2018	6		
				This New York State Education Law Section 200 requires that a copy of this drawing be made available to the public at the time of the public hearing on the drawing.	5			
				If all items bearing the seal of an engineer or architect are shown, the drawing is deemed to be complete and correct for the purposes of the public hearing.	4			
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DRAWING NO. <b>PL-17</b> SHEET XX OF 38	PROJECT MASSEY STREET, COFFEEN STREET & COURT STREET BRIDGE PROJECT CITY OF WATERTOWN, JEFFERSON COUNTY, NEW YORK PIN 7753.62	<b>FISHER</b> ASSOCIATES WWW.FISHERASSOC.COM	EA PROJECT NO. 181017	COPYRIGHT © 2015 FISHER ASSOCIATES P.E., L.S., D.P.C.	7			
	TITLE OF DRAWING PROPOSED ROADWAY PLANS		PROJECT MANAGER T. FAULKNER	DRAWN BY C. CLARK	ISSUE DATE DEC. 2015	6		
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**PROJECT NO.**  
 181017

**PROJECT MANAGER**  
 T. FAULKNER

**DRAWN BY**  
 C. CLARK

**SCALE**  
 1" = 20'

**ISSUE DATE**  
 DEC. 2016

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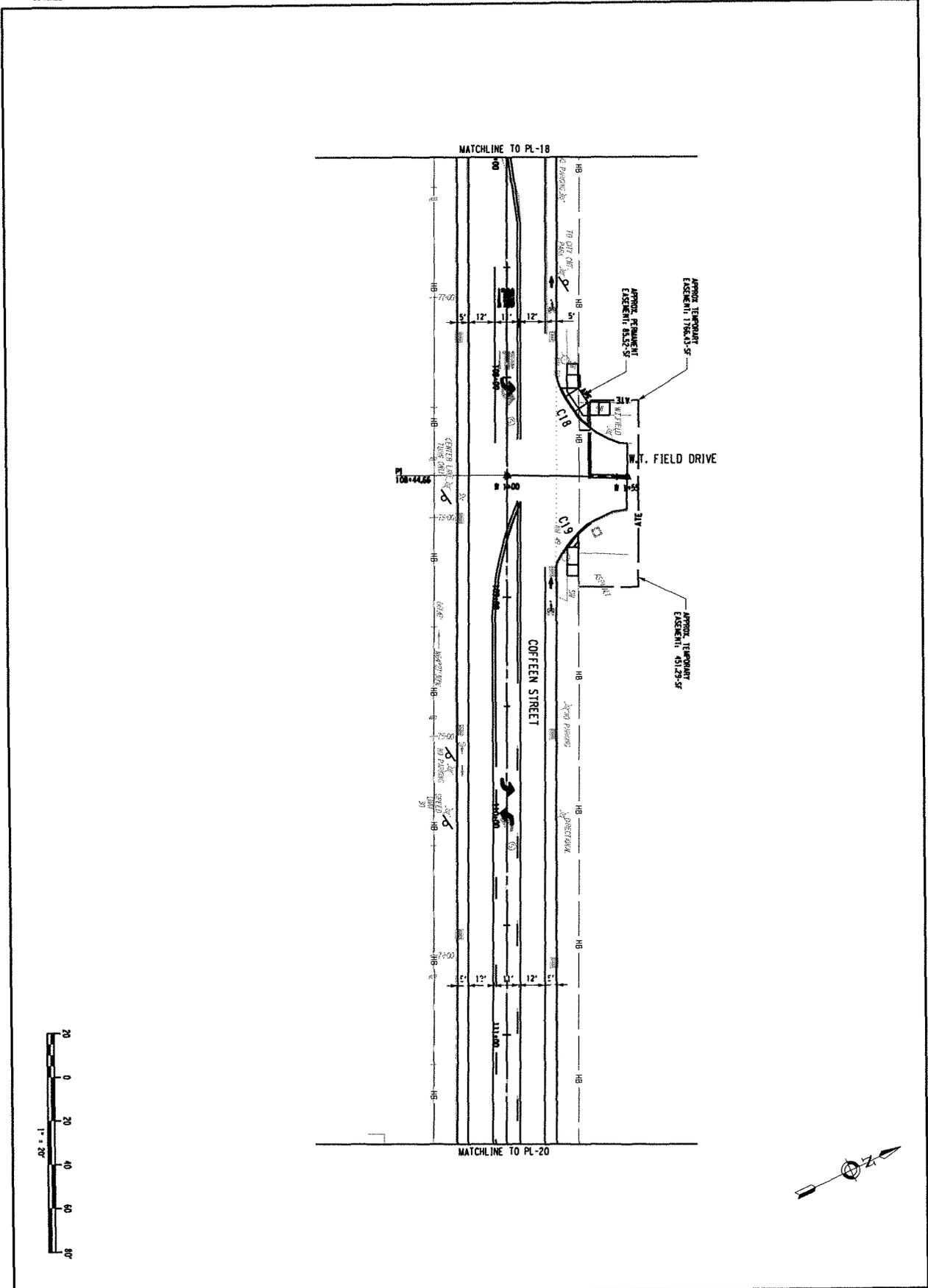
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**PL-18**

**DRWING NO.**

**SHEET NO. OF 38**



PROJECT: MASSEY STREET, COFFEEN STREET & COURT STREET BRIDGE PROJECT  
 CITY OF WATERTOWN, JEFFERSON COUNTY, NEW YORK  
 PIN 7753.62

TITLE OF DRAWING:  
 PROPOSED ROADWAY PLANS



PROJECT NO.  
 181017

PROJECT MANAGER  
 T. FAULKNER

DRAWN BY  
 C. CLARK

SCALE  
 1" = 20'

ISSUE DATE  
 DEC. 2018

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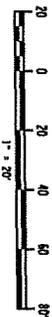
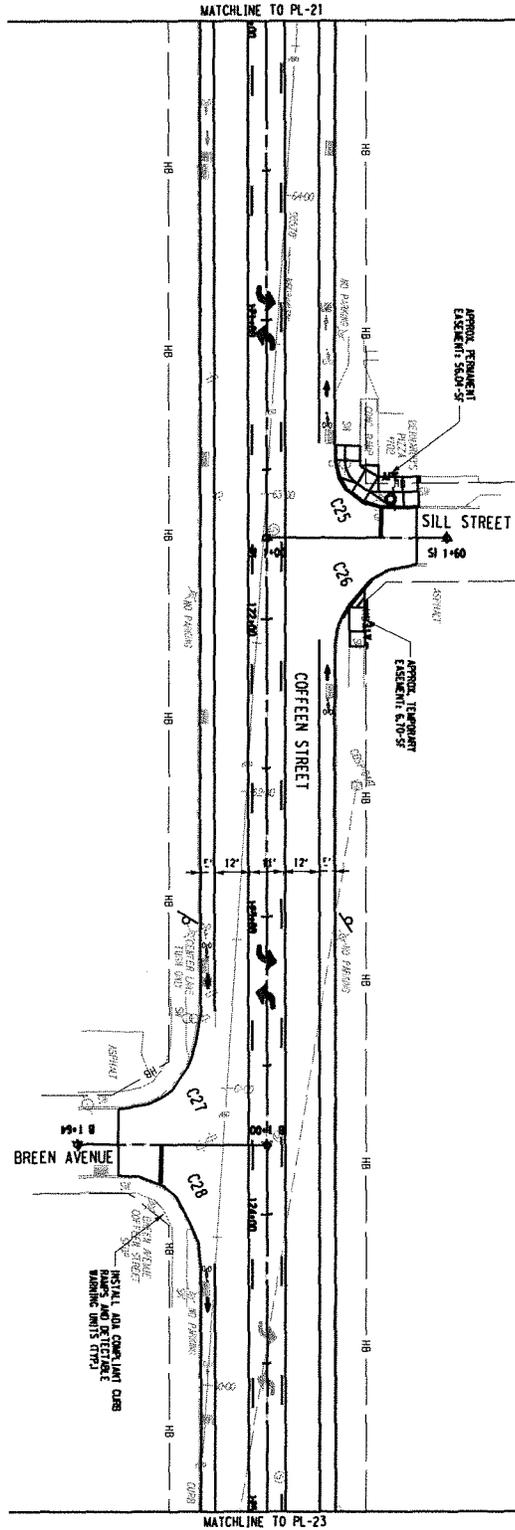
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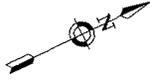
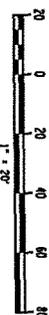
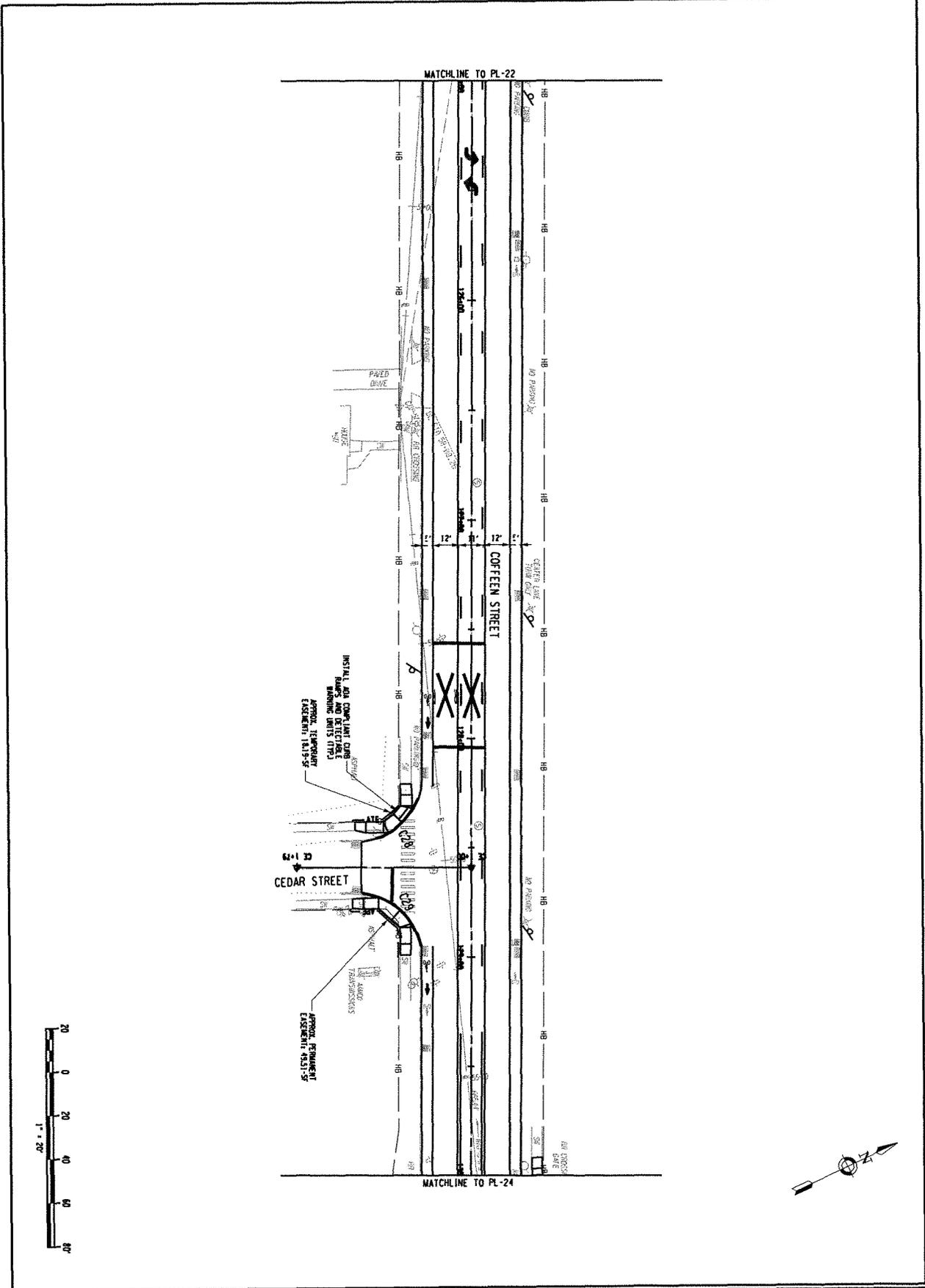
SHEET XX OF 38

PL-19





SHEET NO. OF 38 <b>PL-22</b>	PROJECT: MASSEY STREET, COFFEEN STREET & COURT STREET BRIDGE PROJECT CITY OF WATERTOWN, JEFFERSON COUNTY, NEW YORK PIN 7753.62	<b>FISHER</b> ASSOCIATES WWW.FISHERASSOCIATES.COM	PROJECT NO. 181017	COMPANY © 2018 FISHER ASSOCIATES, P.E., L.L.C., O.P.C.	7			
	TITLE OF DRAWING: PROPOSED ROADWAY PLANS		PROJECT MANAGER T. FAULKNER	DRAWN BY C. CLARK	SCALE 1" = 20'	ISSUE DATE DEC. 2018	6	
				If you have located the spot of any existing or back-sprayed or drilled the utility, whether or not marked and call it out. If you find any utility, whether or not marked, and call it out. If you find any utility, whether or not marked, and call it out. If you find any utility, whether or not marked, and call it out.	5			
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SHEET XX OF 38  
**PL-23**

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 MASSEY STREET, COFFEEN STREET & COURT STREET  
 BRIDGE PROJECT  
 CITY OF WATERTOWN, JEFFERSON COUNTY, NEW YORK  
 PIN 7753.02

TITLE OF DRAWING  
 PROPOSED ROADWAY PLANS



PROJECT NO.  
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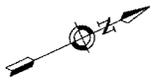
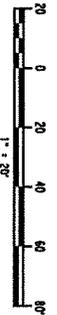
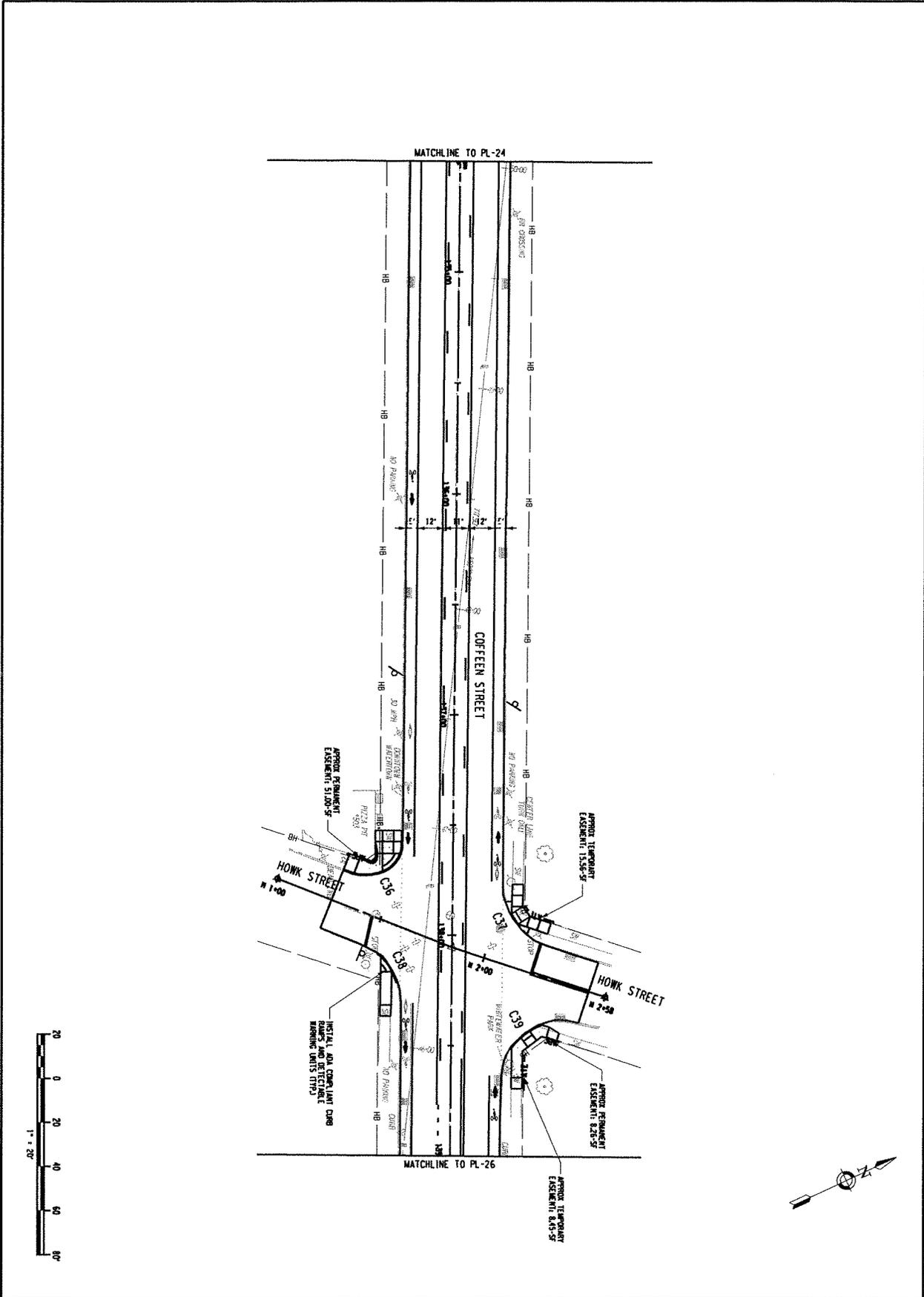
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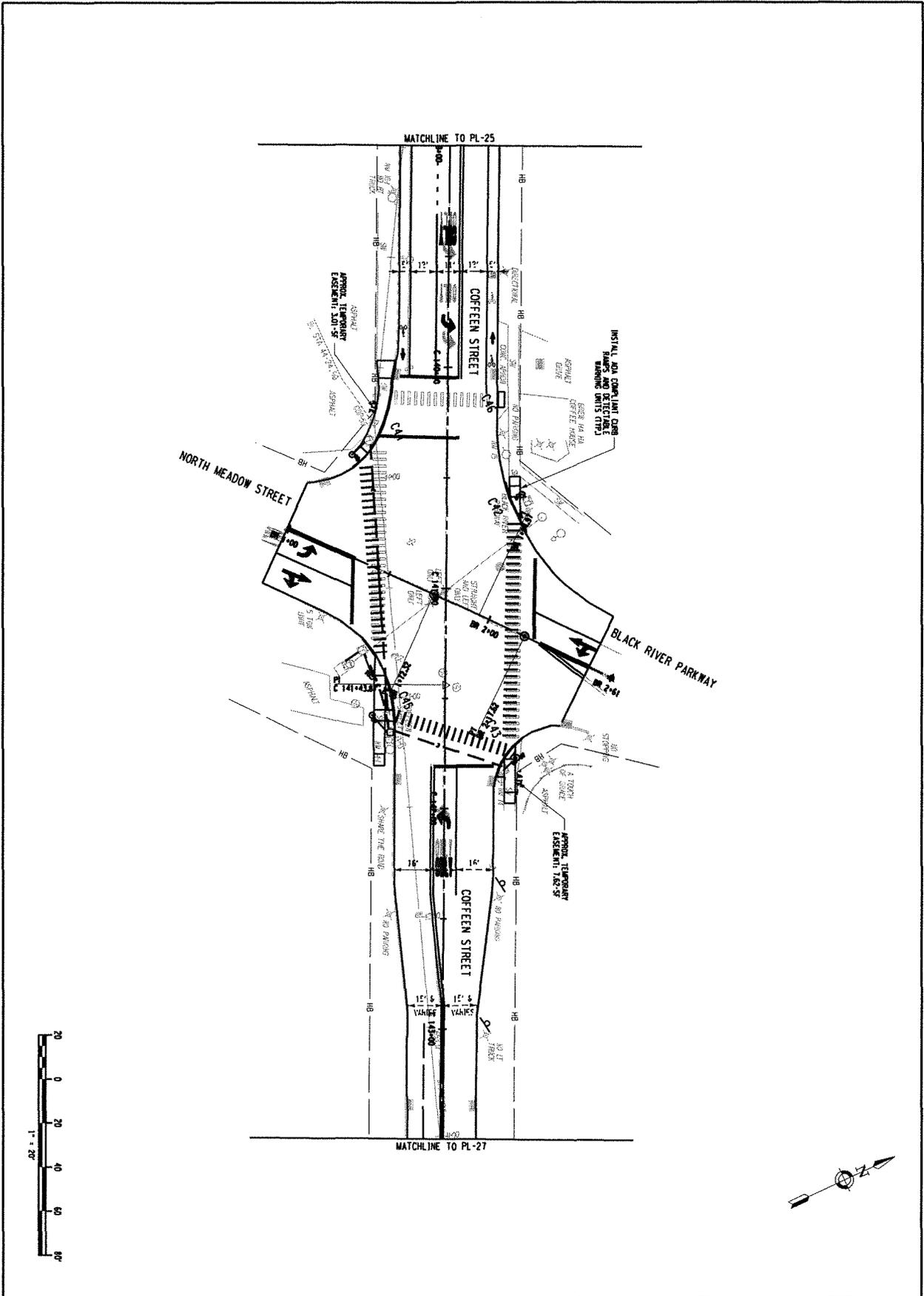
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 DEC. 2018

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Site Work: State Department of Transportation 7500 meters and is to be within the 100' to 200' range. All other existing infrastructure (water or land markings) to show as they exist.		6			
If an item bearing the seal of an engineer or land surveyor is altered without the seal of the original engineer or land surveyor, the original engineer or land surveyor shall be held responsible for the accuracy of the original description of the location.		5			
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SHEET 25 OF 28 <b>PL-25</b> DRAWING NO.	PROJECT MASSEY STREET, COFFEEN STREET & COURT STREET BRIDGE PROJECT CITY OF WATERTOWN, JEFFERSON COUNTY, NEW YORK PIN 7753.62	<b>FISHER</b> ASSOCIATES WWW.FISHERASSOC.COM	PROJECT NO. 181017	COPYRIGHT © 2018 FISHER ASSOCIATES P.E. L.S., L.A., D.P.G.	7			
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**PL-26**  
 SHEET XX OF 39

**PROJECT**  
 MASSEY STREET, COFFEEN STREET & COURT STREET  
 BRIDGE PROJECT  
 CITY OF WATERTOWN, JEFFERSON COUNTY, NEW YORK  
 PIN 7753.82

**TITLE OF DRAWING**  
 PROPOSED ROADWAY PLANS



**FA PROJECT NO.**  
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**PROJECT MANAGER**  
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**DRAWN BY**  
 C. CLARK

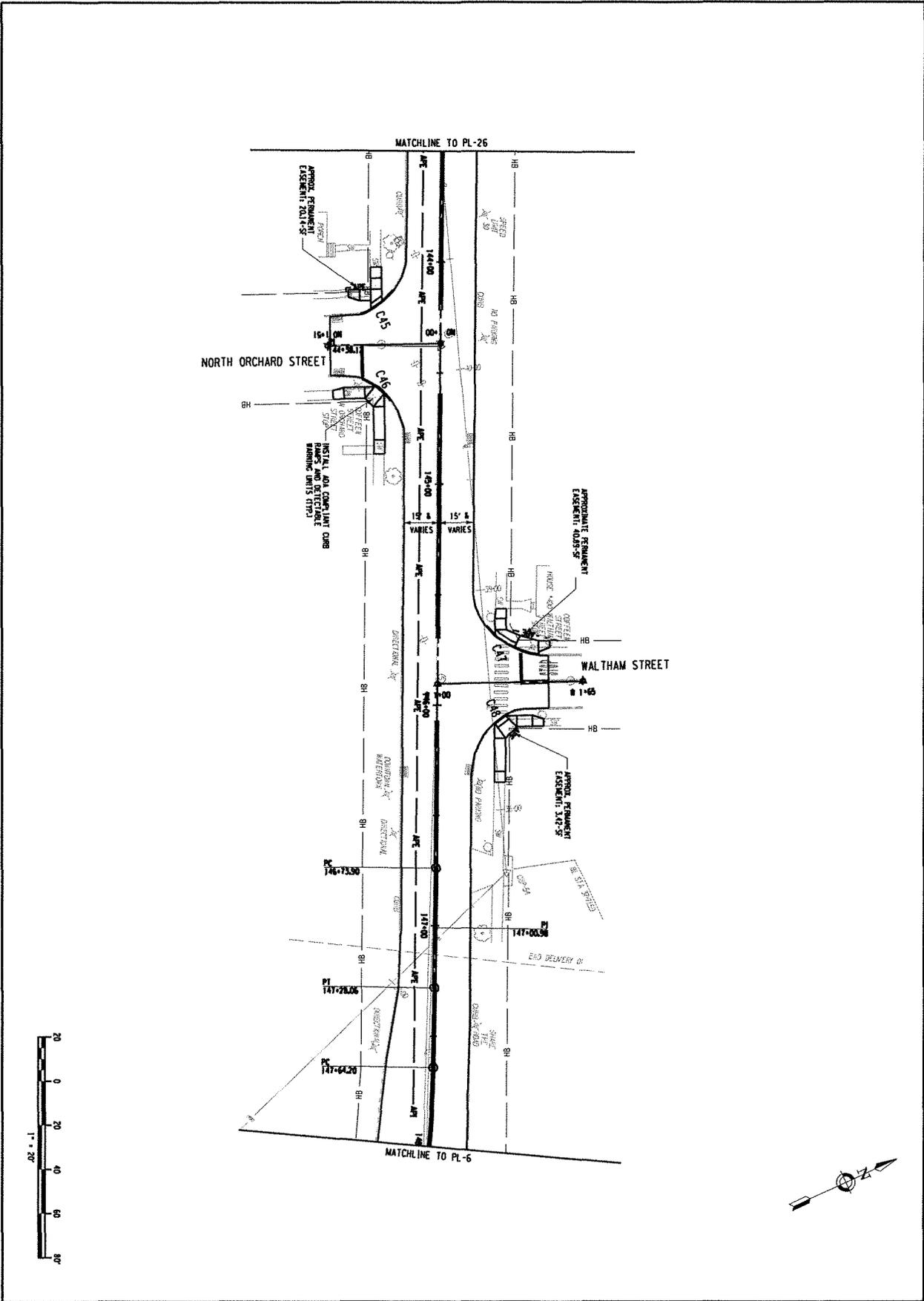
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DRAWING NO. <b>PL-27</b> SHEET XX OF 23	PROJECT MASSEY STREET, COFFEEN STREET & COURT STREET BRIDGE PROJECT CITY OF WATERTOWN, JEFFERSON COUNTY, NEW YORK PIN 7753.62	<b>FISHER</b> ASSOCIATES WWW.FISHERASSOC.COM	PROJECT NO. 181017	COPYRIGHT © 2018 FISHER ASSOCIATES P.E., L.S., L.A., D.P.C.	7			
	TITLE OF DRAWING PROPOSED ROADWAY PLANS		PROJECT MANAGER T. FAULKNER	DRAWN BY C. CLARK	SCALE 1" = 20'	ISSUE DATE DEC. 2018	6	
				If no date bearing the seal of an engineer or architect is shown, the plan or specification shall be void. The seal of the engineer or architect shall be placed on the plan and the plan, specification and the date of its preparation, and a month's expiration of the expiration.	5			
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Res No. 4

November 13, 2019

To: The Honorable Mayor and City Council  
From: Richard M. Finn, City Manager   
Subject: Agreement for Public Benefit Services, Community Action  
Planning Council of Jefferson County, Inc.

Attached for City Council's consideration is a Public Benefit Services Agreement between the City of Watertown and the Community Action Planning Council of Jefferson County, Inc. Since 1967, when the CAPC was incorporated and designated as the official anti-poverty agency in Jefferson County, the City of Watertown and Jefferson County provided the local match used to leverage State and Federal program service dollars.

The Community Action Planning Council provides services that promote the education, charity, health, safety and welfare of the citizens of the City of Watertown. This agreement specifically identifies the services that will be provided to the citizens of this community and funded by the City of Watertown. The term of this Agreement is for one year beginning July 1, 2019, and ending June 30, 2020. Funding in the amount of \$14,500 to support this initiative is included in the FY 2019-2020 Adopted Budget.

A Resolution approving the Agreement between the City of Watertown and the Community Action Planning Council of Jefferson County, Inc. has been prepared for City Council consideration.

# RESOLUTION

Page 1 of 1

Approving Agreement for Public Benefit Services Between the City of Watertown and the Community Action Planning Council of Jefferson County, Inc.

- Council Member COMPO, Sarah V.
- Council Member HENRY-WILKINSON, Ryan J.
- Council Member HORBACZ, Cody J.
- Council Member RUGGIERO, Lisa A.
- Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

***Introduced by***

WHEREAS the Community Action Planning Council of Jefferson County (CAPC) was incorporated and designated in 1967 as the official anti-poverty agency for Jefferson County, and

WHEREAS since that time, CAPC has received funds from local governments as the local share required to leverage State and Federal program service dollars, and

WHEREAS the services provided by the CAPC promotes a public purpose, and

WHEREAS the services promote the education, charity, health, safety and welfare of the citizens of the City of Watertown,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the Agreement for Public Benefit Services between the City of Watertown and the Community Action Planning Council of Jefferson County, Inc., a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute this Agreement on behalf of the City of Watertown.

***Seconded by***

**AGREEMENT FOR PUBLIC BENEFIT SERVICES**

**BETWEEN**

**THE CITY OF WATERTOWN, NEW YORK**

**and**

**THE COMMUNITY ACTION PLANNING COUNCIL OF JEFFERSON COUNTY, INC.**

This Agreement made by and between the City of Watertown, New York (City) and the Community Action Planning Council of Jefferson County, Inc. (CAPC).

**WITNESSETH**

For and in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto for themselves, their successors and assigns, have mutually agreed and do agree with each other as follows:

Article I. **DESCRIPTION OF SERVICES.** The Community Action Planning Council of Jefferson County, Inc. provides services that are considered to be for a public purpose. The Community Action Planning Council provides services which promote the education, charity, health, safety and welfare of the citizens of the City of Watertown.

Article II. **ELIGIBLE ACTIVITIES.** Eligible activities of the Community Action Planning Council reimbursable by the City shall promote a public purpose. Specifically, the Community Action Planning Council shall provide the following services to the citizens of the City of Watertown:

- a. Assist individuals and families to secure and retain meaningful employment.
- b. Assist individuals and families to attain an adequate education.
- c. Assist individuals and families to counteract conditions of starvation and malnutrition.
- d. Assist individuals and families to make a better income.
- e. Assist individuals and families to obtain emergency assistance.
- f. Assist individuals and families to obtain and maintain adequate housing.
- g. Assist individuals and families to remove obstacles that block self-sufficiency.

Article III. INELIGIBLE ACTIVITIES. Activities of the Community Action Planning Council, which do not promote a public purpose, shall be ineligible for reimbursement. Activities which are ineligible for reimbursement shall include, but not be limited to, land acquisition, salaries, utilities, fuel, insurance, interest, purchase of equipment, or program activities solely directed toward or restricted to organizational membership.

Article IV. TERM OF THIS AGREEMENT. The term of this Agreement shall be from July 1, 2019, through June 30, 2020.

Article V. MANNER OF PAYMENT.

a. The City agrees to provide Fourteen Thousand Five Hundred Dollars (\$14,500) to the Community Action Planning Council for the term specified above.

b. Payment shall be made by the City Comptroller. The annual payment will be made on or after December 1<sup>st</sup>. Payment will only be made upon the City's receipt of a fully executed copy of this Agreement and a signed City Invoice form.

c. Payment shall be made by the City Comptroller upon the receipt of an executed Service Agreement between the City of Watertown and the Community Action Planning Council. Along with their reimbursement request, the CAPC will provide a verified list of expenditures which used City funds provided under this Agreement.

Article VI. PROVISIONS OF LAW. All provisions of law required to be made as part of this Agreement are hereby deemed incorporated in this Agreement. Performance of the terms and conditions of this Agreement shall be subject to and performance of all applicable laws.

Article VII. TERMINATION OF AGREEMENT. This Agreement may be terminated by either party, at any time, by the delivery to the other party of a written notice of termination by the Agreement, stating in good faith and for good and valid reasons by such party is unable to comply with and carry out the terms and substantive obligations of the Agreement in a meaningful manner. In the event of such termination, the City and the CAPC shall perform such services and pay such monies as are necessary to carry out their respective obligations under the Agreement up to the date of termination of the Agreement. Any notice shall be delivered in person or by first class mail, return receipt requested, at the address of such party as hereinafter set out.

Article VIII. EXTENT OF AGREEMENT. This Agreement represents the entire Agreement between the City and the CAPC. This Agreement may be amended only by written instrument signed by both parties and such amendment shall be attached to this Agreement.

Article IX. ANNUAL REPORT. The CAPC will provide the City of Watertown with a copy of their annual financial report. If not included in the annual financial report, an additional report shall be submitted which details the services provided by CAPC to the citizens of Watertown.

Article X. NOTICES. All notices required to be given under this Agreement shall be in writing and shall be deemed to have been duly given on the date mailed, if sent by certified mail, return receipt requested or delivered in person to:

THE CITY:

City Manager  
City of Watertown  
245 Washington Street  
Suite 302  
Watertown, New York 13601

THE COMMUNITY ACTION PLANNING COUNCIL:

Executive Director  
Community Action Planning Council of Jefferson County, Inc.  
518 Davidson Street  
Watertown, New York 13601

A party may change the address to which notices are to be sent by written notice actually received by the other party.

IN WITNESS WHEREOF, the City of Watertown and the Community Action Planning Council of Jefferson County, Inc. have caused this Agreement to be executed by authorized agents to be effective as of the date heretofore written.

THE CITY OF WATERTOWN, NEW YORK

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BY: City Manager Richard M. Finn

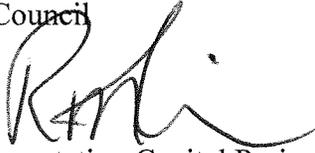
THE COMMUNITY ACTION PLANNING COUNCIL OF JEFFERSON COUNTY, INC.

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BY: Executive Director Melinda Gault

Res No. 5

November 12, 2019

To: The Honorable Mayor and City Council  
From: Richard M. Finn, City Manager   
Subject: Accepting NYS DOT Mass Transportation Capital Project Agreement

The City of Watertown has successfully applied to the New York State Department of Transportation for a Mass Transportation Capital Project – Capital Assistance Master Grant. This resolution authorizes the execution of this agreement for the reimbursement of Project Eligible Costs actually incurred as detailed in attached Schedule A which will in no event exceed the five year projected award value of \$1,789,418.

The attached Schedule A of this main agreement includes an award of \$177,039 which represents the New York State's share of the projects detailed. Included in this total is \$80,875 in State Omnibus funding and \$96,164 in combined Advanced Transit Capital (ATC) and Modernization & Enhancement (MEP) funding.

Attached for City Council consideration is a resolution authorizing the City Manager to sign the Agreement.

# RESOLUTION

Page 1 of 2

Accepting NYS DOT Mass Transportation  
Capital Project Agreement

Council Member COMPO, Sarah V.  
 Council Member HENRY-WILKINSON, Ryan J.  
 Council Member HORBACZ, Cody J.  
 Council Member RUGGIERO, Lisa L.  
 Mayor BUTLER, Jr., Joseph M.  
 Total .....

YEA	NAY

## *Introduced by*

---

WHEREAS the City of Watertown has successfully applied to the New York State Department of Transportation (NYS DOT) for a Mass Transportation Capital Projects – Capital Assistance Master Grant, and

WHEREAS the projected total of \$1,789,418 has been awarded, which includes \$80,875 from the State Omnibus funds, \$96,164 in combined Advanced Transit Capital (ATC) and Modernization & Enhancement (MEP) funding to be allocated to the following programs:

- 1 PIN Number 7820.07.001 in the amount of \$397,866 for the purchase of two (2) <30 ft replacement transit buses and one (1) <30 ft paratransit bus to be used in fixed route and complimentary paratransit service,
- 2 PIN Number 7820.10.001 in the amount of \$25,000 for bus signal and communication equipment,
- 3 PIN Number 7820.16.001 in the amount of \$88,754 for the purchase and installation of bus stop signage along CitiBus fixed routes,
- 4 PIN Number 7820.18.001 in the amount of \$450,000 for the purchase of a 30 ft replacement transit bus to be used in fixed route service,
- 5 PIN Number 7820.48.001 in the amount of \$11,000 for installation of a new bus shelter,
- 6 PIN Number 7820.49.001 in the amount of \$16,000 for the purchase of a Fare Collection unit,

and

WHEREAS this funding totaling \$177,039 is awarded as the NYS DOT funded portion of the listed projects with no match required from the City of Watertown,

**RESOLUTION**

Page 2 of 2

Accepting NYS DOT Mass Transportation  
Capital Project Agreement

- Council Member COMPO, Sarah V.
- Council Member HENRY-WILKINSON, Ryan J.
- Council Member HORBACZ, Cody J.
- Council Member RUGGIERO, Lisa L.
- Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby accepts the NYS DOT Mass Transportation Capital Project Agreement, a copy of which is attached and made part of this resolution, and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to sign the Agreement on behalf of the City of Watertown and all contracts associated with accepting this award.

*Seconded by*

**MASS TRANSPORTATION CAPITAL PROJECT AGREEMENT**

**COMPTROLLER'S CONTRACT NO. K007394**

**Contract Period: 4/1/2018 – 3/31/2023**

This Agreement is made 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  
**City of Watertown** (the Grantee) with its offices at  
**245 Washington Street, Watertown, New York 13601-3334**

This agreement identifies the party responsible for administration, and establishes the method or provision for funding, of applicable phases of mass transportation capital project(s) to support public transportation systems, as more fully described by Schedule A annexed to this agreement, or one or more duly executed and approved Supplemental Schedules A to this agreement. The amount of NYSDOT's grant pursuant to this agreement shall be limited to reimbursement of Project Eligible Costs actually incurred, in no event to exceed **\$1,789,418** (the "Grant")

WITNESSETH:

WHEREAS, pursuant to State Finance Law §89-c, that establishes the Dedicated Mass Transportation Trust Fund ("DMTTF"), following appropriation by the legislature moneys therein shall be utilized for the design, construction, reconstruction, replacement, purchase, modernization, improvement, reconditioning, preservation and maintenance of mass transit facilities, vehicles and rolling stock; and

WHEREAS, pursuant to appropriation or reappropriation from the DMTTF the legislature authorized certain funding programs for the costs of mass transportation capital projects and facilities undertaken by Grantees, regional public transportation authorities, and mass transit systems;

WHEREAS, pursuant to authorizations therefore, NYSDOT and the Grantee are desirous of progressing the Project(s) under the Dedicated Mass Transportation Trust Fund program of projects;

WHEREAS, the Grantee by duly adopted Resolution approved the Project(s), the Grantee's entry into this Agreement and authorized the appropriate official of the Grantee to execute this Agreement and the applicable Schedule A on behalf of the Grantee (a copy of such Resolution is attached hereto and made a part of this Agreement);

*Check if State-administered Federal Aid (§5311) is applicable* :

WHEREAS, pursuant to Highway Law §80(1) NYSDOT may, in accordance with State appropriations therefore, use federal aid for the purchase of buses or any other passenger equipment, the construction of exclusive or preferential bus passenger loading areas and facilities (including shelters) and for any mass transit purpose as is allowed by federal law respecting such funds; and

WHEREAS, the State has appropriated or reappropriated federal aid monies for the Project(s)

*Check if Rebuild and Renew New York Transportation Bond Act of 2005 is applicable* :

WHEREAS, Article 22 of the Transportation Law authorizes the NYSDOT Commissioner to implement the Rebuild and Renew New York Transportation Bond Act of 2005 which funds the Transit Clean Fuel Vehicle Initiative; and

WHEREAS, pursuant to appropriation or reappropriation from the Rebuild and Renew New York Transportation Bond Act of 2005, the legislature authorized certain funding programs for the costs of mass transportation capital projects and facilities undertaken by municipalities and mass transit systems; and

WHEREAS, the Sponsor attests that the Project has a useful service life of at least 10 years, and

NOW, THEREFORE, the parties agree as follows:

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

- Agreement Form - this document titled "Mass Transportation Capital Project Agreement";
- Schedule A – Project(s) Description, Funding and Development Schedule;
- Exhibit A - Work Requirements
- Exhibit B – Grantee Record Keeping Guidelines
- Exhibit C (if applicable) - FTA Circular C 4220.1F – Third Party Contracting (included by reference)
- Appendix A - Standard Clauses for All New York State Contracts
- Appendix A-1 Supplemental Title VI Provisions (Civil Rights Act)
- Appendix B - U.S. Government (FTA) Required Clauses
- Grantee Resolution (if applicable) - duly adopted grantee resolution(s) authorizing the appropriate official of the Grantee to execute this Agreement on behalf of the Grantee and appropriating or otherwise providing the funding required therefor.
- If State-Administered Federal Aid (§5311) is applicable, as designated on page 1, then the Federal §5311 Capital Project Application, approved by NYSDOT, and respective Federal Eligibility Requirements, are incorporated by reference.
- If “Rebuild and Renew New York Transportation Bond Act of 2005” is applicable, as designated on page 1, then the final approved Bond Application and State Requirements are incorporated by reference.

2. *Work, Maintenance and Operation:* Grantee shall render all services and furnish all materials and equipment necessary to complete the Project described in Schedule A, and shall fund all costs attendant such completion. Grantee shall perform its work in accordance with the Work Requirements set forth in Exhibit A annexed hereto. Upon Project completion, Grantee will operate and maintain the Project at no expense to NYSDOT and, during the useful life of the Project according to federal guidelines, Grantee shall not discontinue operation, or dispose of the Project without the prior written approval of NYSDOT.

3. *State-Aid.* NYSDOT will reimburse the State-Aid portion described in Schedule A in the manner described below.

3.1.1 *State Aid-Eligible Costs.* State Aid-Eligible

Project costs include costs of design, engineering, acquisition, demolition, construction, repair, reconstruction, renovation, equipment and other directly related Project costs identified for such State aid in Schedule A hereof.

3.1.2 *Participating Items.* NYSDOT shall apply state funds only for that work and those items that are eligible for State participation under the State Finance Law §89-c. Included among the participating items are the actual cost of Grantee employee personal services, leave and fringe benefit additives directly related to performing the project Other participating costs include fees to consultants and professionals retained by the Grantee for planning, designing, managing, and performing the Project.

3.1.3 *Periodic Reimbursement.* Except where the Grantee proceeds or has proceeded without an agreement with NYSDOT, if the Grantee finds it desirable to have reimbursement made periodically, upon the request and certification therefor by the Grantee, NYSDOT may make progress payments based on billings prepared and submitted by the Grantee in accordance with NYSDOT requirements, based on costs incurred as disclosed by the records thereof, as required by the Project, with adjustments to be made after audit by NYSDOT or FTA. The Grantee must certify as part of each grantee payment request that the payment requested does not duplicate reimbursement of costs and services received from other sources or previous payment requests. These payments shall be made as moneys become available therefor.

3.2 *State Administered Federal Aid Eligible Project Costs.* Where the State administers Federal aid to the Grantee as set forth in Schedule A, or one or more supplemental Schedules A, consistent with the provisions of FTA Circular 9040.1G and State policy governing the administration of the FTA Section 5311 Program, eligible reimbursable Federal share of eligible facilities and equipment shall not exceed 80% of the net project cost, except for bicycle facilities projects and facility construction or rehabilitation required to comply with the Americans with Disability Act of 1990 or the Clean Air Act, which may have up to a 90 percent Federal share. For work performed by or through the Grantee, NYSDOT will reimburse federal aid-eligible expenditures in accordance with NYSDOT policy and procedures.

3.3 *Debt Service.* Federal aid or State aid funds shall **not** be used to pay for interest, issuance costs or reserves in connection with the issuance of debt to fund the Project, but may repay principal indebtedness incurred to fund Eligible Project costs, which debt shall then be retired, redeemed or deceased in the amount of such repayment(s) by the issuer thereof.

3.4 In no event shall this Agreement create any obligation to the Grantee for funding or reimbursement of any amount in excess of the amount stated in Schedule A or duly executed Supplemental Schedules A for the State Share and any applicable Federal aid funded under this Agreement (Schedule A may show State, local or other funds required for the project that are not funded under this Agreement, and are otherwise the responsibility of the Grantee to provide to the Project).

3.5 All items included by the Grantee in the record of costs shall be in conformity with accounting procedures acceptable to NYSDOT (See **EXHIBIT B**) and the FTA. Such items shall be subject to audit by the State and the FTA.

3.6 If Project-related work is performed by NYSDOT, NYSDOT will be paid for the full costs thereof. To effect, such payment the reimbursement to the Grantee provided for in 3 may be reduced by NYSDOT by the amounts thereof.

4. *Supplemental Agreement or Supplemental Schedules.* Supplemental Agreements or Supplemental Schedules under a NYSDOT Supplemental Cover Agreement may be entered by the parties, and must be approved in the manner required for a State contract.

5. *State Recovery of Ineligible Reimbursements.* NYSDOT shall be entitled to recover from the Grantee any moneys paid to the Grantee pursuant to this Agreement which are subsequently determined to be ineligible for State Aid or applicable Federal Aid hereunder.

6. *Failure to Diligently Progress Project or Loss of State or Federal Participation.* If NYSDOT determines that the Grantee has failed to diligently progress the project, or in the event the Grantee withdraws its approval of the project, or the Grantee suspends or delays work on the Project such that it can not 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 Grantee, for the costs incurred pursuant to this agreement, the Grantee shall refund to the State all reimbursements received from or through the State. The State may offset any other State aid due to the Grantee by such amount and apply such offset to such repayment obligation of the Grantee.

7. *Grantee Liability.*

7.1 If the Grantee performs work under this agreement with its own forces, it shall be responsible for all damage to person or property arising from any act or negligence performed by or on behalf of the Grantee, its officers, agents, servants or employees, contractors, subcontractors or others in connection therewith. The Grantee 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.

7.2 The Grantee 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 Grantee by its officers, agents, servants, employees, contractors, subcontractors or others under this agreement. Negligent performance of service, within the meaning of this section shall include, in addition to negligence founded upon tort, negligence based upon the Grantee's failure to meet professional standards and resulting in obvious or patent errors in the progression of its work.

8. *Project Maintenance and Operation: No Charter or Exclusive School Bus Use.* Upon Project completion the **Grantee** shall provide for the maintenance and operation of the Project facilities and equipment for the purpose of providing safe and efficient public transportation, and such operation and maintenance shall not be terminated without prior written authorization from **NYSDOT**. Project equipment shall not be used in charter bus service in competition with private bus operators or for exclusive school bus use, except as provided by **NYSDOT** and/or FTA rules and regulations.

8.1 *Disposition or Encumbrance of Project.* Grantee will not dispose of or encumber the Project or cause the Project to be withdrawn from mass transportation service during its useful life, as defined in Schedule A, without the prior approval of NYSDOT, which approval is reserved for the purposes of assuring compliance with: NYSDOT or Grantee assurances or certifications to the FTA in connection with any FTA funding of the Project(s) made hereunder; and/or Project restrictions that may apply should the State funding of this agreement be made from the proceeds of debt obligations. For any State administered Project with FTA funding, any such NYSDOT approved disposition shall be consistent with Federal Law and FTA rules, regulations, circulars and guidance relating to disposition or encumbrance of Federally-funded projects. For any agreement, or portion of any agreement, funded with DMTTF appropriations which are based solely on matching Federal transportation funding, NYSDOT will approve such disposition or encumbrance consistent with the actions taken by the FTA and/or Federal Highway Administration. For any project funded solely with DMTTF funds, NYSDOT actions regarding disposition or encumbrance shall be consistent with State laws, regulations and procedures.

9. *Independent Contractor.* The officers and employees of the Grantee, in accordance with the status of the Grantee 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.

10. *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 purposes hereof.

11. *Assignment or Other Disposition of Agreement.* The Grantee 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.

12. *Term of Agreement.* As to the Project and phase(s) described in Schedule(s) A executed herewith, this agreement takes effect as of the date of this Master Agreement as first above written. This agreement takes effect as to the Project and phase(s) established in any duly executed and approved supplemental Schedule(s) A as of the date of such supplemental Schedule(s) A. This agreement shall remain in effect for the contract period as first written above so long as the 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 federal or State budgetary hiatus will not by itself be construed to lapse this agreement, provided any necessary federal or State appropriations or other funding authorizations therefore are eventually enacted.

13. *NYSDOT Obligations.* NYSDOT's responsibilities and obligations are as specifically set forth in this contract, and neither NYSDOT nor any of its officers or employees shall be responsible or liable, nor shall the Grantee 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 agreement.

14. *Ethics Considerations.* In addition to **Grantee's** conforming with the any applicable provisions of Public Officers Law §73 (Business or Professional Activities by State Officers and Employees and Party Officers) and General Municipal Law §806 (Code of Ethics) as related to the expenditure of the grant made hereunder, no member of **Grantee's** governing body, its officers or employees, 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 otherwise in accordance with law and is necessary for the accomplishment of the Project. In such event, **Grantee** shall disclose such relationship to **NYSDOT** and shall obtain prior written approval therefor from **NYSDOT**.

15. *NYSDOT Performance Review.* The Commissioner

may review the **Grantee'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 **Grantee**. **Grantee** 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 **Grantee's** performance of the Project, its use and operation.

16. *Notice of Governmental Audit.* **Grantee** shall notify **NYSDOT** of any audit by any governmental agency of any projects, operations or reports of **Grantee** within five (5) days of receiving information relating thereto.

17. *Inspection and Audit.* **Grantee** shall permit the authorized representative of **NYSDOT** and/or the State Comptroller to inspect and audit all books, records and accounts of **Grantee** pertaining to the Project under this Agreement. **Grantee** shall maintain records relating to this Agreement in accordance with the Records requirements of Appendix A.

18. *SEQRA.* **Grantee** shall comply with the requirements of the State Environmental Quality Review Act ("SEQRA"). **Grantee**, if a unit of government, shall be the "lead agency" for SEQRA purposes. If **Grantee** is not a unit of government, a governmental unit with jurisdiction shall be the "lead agency" or, on the application of **Grantee** and agreement to pay the costs thereof, **NYSDOT** may elect to be "lead agency".

19. *Required Clauses.* Attached hereto and made a part of this agreement, as if set forth fully herein as Appendix A, Standard Clauses For All New York State Contracts and Appendix B, U.S. Government Required Clauses. For State administered Federal aid projects funded through this Agreement, the Grantee will fulfill and comply with the requirements of the Final Approved Federal §5311 Capital Project Application, inclusive of provisions required in connection with Federal aid.

## 20. NOTICES

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: Kent T. Sopris**

**Title: Director of Public Transportation**

**Address: POD 5-4, 50 Wolf Rd, Albany NY 12232**

**Telephone Number: 518-457-8335**

**Facsimile Number: 518-485-7563**

**E-Mail Address: Kent.Sopris@dot.ny.gov**

**City of Watertown**

**Name: Mr. Richard Finn**

**Title: City Manager**

**Agency: Watertown City Hall**

**Address: 245 Washington Street, Watertown, New York  
13601-3334**

**Telephone Number: (315) 785-7730**

**Facsimile Number: (315) 782-9014**

**E-Mail Address: rfinn@watertown-ny.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.

**21. CONTRACT PAYMENTS**

Contractor shall provide complete and accurate billing invoices to the Agency in order to receive payment. Billing invoices submitted to the Agency must contain all information and supporting documentation required by the Contract, the Agency and the State Comptroller. Payment for invoices submitted by the Contractor 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. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index/htm](http://www.osc.state.ny.us/epay/index/htm), by e-mail at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us), or by telephone at 518-474-4032. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

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**IN WITNESS WHEREOF**, the parties have caused this agreement to be executed by their duly authorized officials as of the date first above written.

<p>GRANTEE:</p> <p>By: _____</p> <p>Title: _____</p> <p>Print Name: _____</p> <p>Date: _____</p>	<p>NYS DOT:</p> <p>By: _____</p> <p><b>For Commissioner of Transportation</b></p> <p>Agency Certification: In addition to the acceptance of this contract I also certify the original copies of this signature page will be attached to all other exact copies of this contract.</p> <p>Date: _____</p>
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<p>APPROVED AS TO FORM:</p> <p>State of New York Attorney General</p> <p>By: _____</p> <p>Date: _____</p>	<p>APPROVED:</p> <p>Comptroller</p> <p>By: _____</p> <p>Date: _____</p> <p style="text-align: center;">Pursuant to State Finance Law §112.</p>
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**CONTRACT No: K007394**

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; that it was executed by order of the \_\_\_\_\_ of said Municipal/Sponsor Corporation; and that he/she signed his/her name thereto by like order.

\_\_\_\_\_  
 Notary Public

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**PROJECT AGREEMENT  
SCHEDULE A Dated**

PROJECT DESCRIPTION, FUNDING AND DEVELOPMENT SCHEDULE

Contractor/Grantee:

**City of Watertown**

**Comptroller's Contract #: K007394 Contract period: 4/1/2018 to 3/31/2023**

AGREEMENT PURPOSE:  Main Agreement  Supplemental Schedule  Administrative Correction

GENERAL PROJECT DESCRIPTION

SFY1819 Urban Master Grant Agreement

PROJECT LOCATION/JURISDICTION or SERVICE AREA

**City of Watertown**

PIN	Project	Award ID:	DOT Rev	Estimated Project Cost	Federal Share	Admin/Direct - **	%	*State Share	%	Local Share	%	Source State Approp	Project End Date	Useful Life
7820.07.001	Replacement <30 ft. Bus	NY-2018-069-00	0 - 0	\$63,893	\$51,114	Direct	80	\$6,390	10	\$6,389	10	Omnibus	05/2019	5 Yrs.
7820.07.001	Replacement <30 ft. Bus	NY-2018-069-00	0 - 0	\$333,973	\$267,178	Direct	80	\$33,398	10	\$33,397	10	Omnibus	05/2019	5 Yrs.
7820.10.001	Bus Signal & Communication Equipment	NY-2019-048-00	0 - 0	\$25,000	\$20,000	Direct	80	\$2,500	10	\$2,500	10	Omnibus	12/2019	10 Yrs.
7820.16.001	Purchase and Install Bus Stops	NY-2019-048-00	0 - 0	\$15,867	\$14,104	Direct	89	\$1,763	11	\$0	0	Omnibus	12/2020	12 Yrs.
7820.16.001	Purchase and Install Bus Stops	NY-2019-048-00	0 - 0	\$64,012	\$56,899	Direct	89	\$7,113	11	\$0	0	Omnibus	12/2020	12 Yrs.
7820.16.001	Purchase and Install Bus Stops	ATC-19-WTR-00	1 - 1	\$8,875	\$0	Direct	0	\$8,875	100	\$0	0	Transit - ATC	12/2020	12 Yrs.
7820.18.001	Replacement 30 ft. Bus	NY-2019-048-00	0 - 0	\$405,000	\$360,000	Direct	89	\$45,000	11	\$0	0	Omnibus	03/2021	12 Yrs.
7820.18.001	Replacement 30 ft. Bus	ATC-19-WTR-00	1 - 1	\$3,448	\$0	Direct	0	\$3,448	100	\$0	0	Transit - ATC	03/2021	12 Yrs.
7820.18.001	Replacement 30 ft. Bus	ATC-18-WTR-00	1 - 1	\$28,217	\$0	Direct	0	\$28,217	100	\$0	0	Transit - ATC	03/2021	12 Yrs.
7820.18.001	Replacement 30 ft. Bus	ATC-17-WTR-00	2 - 2	\$13,335	\$0	Direct	0	\$13,335	100	\$0	0	Transit - ATC	03/2021	12 Yrs.
7820.48.001	Bus Shelter	TC-18-WTR-S-00	0 - 0	\$11,000	\$0	Direct	0	\$11,000	100	\$0	0	Transit - MEP	10/2019	15 Yrs.
7820.49.001	Farebox	ATC-17-WTR-00	2 - 2	\$14,710	\$0	Direct	0	\$14,710	100	\$0	0	Transit - ATC	10/2019	10 Yrs.
7820.49.001	Farebox	ATC-16-WTR-00	1 - 1	\$1,290	\$0	Direct	0	\$1,290	100	\$0	0	Transit - ATC	10/2019	10 Yrs.
<b>Agreement Total:</b>				<b>\$988,620</b>	<b>\$769,295</b>			<b>\$177,039</b>		<b>\$42,286</b>				

\* With NYSDOT concurrence, the state shares may be interchanged among PINs within the Schedule and total State share

\*\* If DOT-PAY is listed under the Admin/Direct column, then the Federal Dollars for that row is not included in the Federal Share of the Agreement.

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**EXHIBIT A**  
**Work Requirements for Mass Transportation Capital Project Agreement**

The work of the project shall be performed in accordance with the following requirements:

1. Plans, Specifications and Estimates, Contracts, and Construction
  - a. The Grantee shall comply with all applicable statutes, permits, ordinances, rules and regulations relative to the development of the project including those for projects which may have a significant effect on the environment (e.g. the National Environmental Policy Act ("NEPA") and State Environmental Quality Review Act, significant effect on agricultural districts (Agriculture and Markets Law, Article 25AA), the preservation of historic structures, the quality of water and potential for flood hazards and losses (Environmental Conservation Law, Articles 8 and 36) and certify such compliance in a form acceptable to NYSDOT.
  - b. Contract work with any person, firm, corporation or agency, either governmental or private, to accomplish the Project will be in accordance with applicable State and Federal law.
  - c. The Grantee shall design and construct the Project, or cause it to be designed and constructed, in accordance with Federal and State design standards and conditions under the supervision of a professional engineer, or architect or other professional.
  - d. All construction work shall be performed with construction materials and construction methods in accordance with contract specifications contained in bid package, contract award package, and any and all approved contract modifications. Construction supervision work shall be performed by the Grantee or by contract.
  - e. The record sampling program, independent testing and quality assurance procedures applicable to federal-aid Projects performed by the Grantee shall be in accordance with the Project specifications whether or not such procedures are required for the receipt of Federal-Aid.
  - f. Any contract plans and specifications shall be stamped with the seal of a professional engineer licensed in this State and shall be signed by such professional engineer, or shall be signed by such other professional licensed in this State. The plans and specifications shall be filed with NYSDOT. The plans, specifications and estimate package for the project shall be submitted to NYSDOT for review, comment and notice to the Grantee to proceed to letting construction of the project.
  - g. The Grantee shall submit plans, specifications, designs, estimates, contract modifications, contract award documents, and other project related documents and information in a manner consistent with the NYSDOT *Design and Construction Oversight Process* for mass transportation capital construction projects.
  - h. The contract between the Grantee and its contractor(s) must comply in every way with applicable Federal laws, rules, regulations and, whether or not otherwise required for federal aid for the Project, the Federal-Aid Policy Guide (FPG) NYSDOT shall not be a party to any such third party contract.
2. Procurement: Whether or not otherwise required for federal aid for the Project, the Grantee must adhere to the requirements of Federal Transit Administration Circular FTA C 4220.1D as reproduced below, or as revised, for the solicitation, award and administration of its' third party contracts.
3. Contract Letting and Award: As required by law construction contract lettings, construction contract awards, and any and all third party contract awards funded as part of this Project shall be based on a competitive process, and shall require prior approval of NYSDOT in the following manner:
  - a. Prior to advertising for bids, one copy each of the proposed construction contract, plans, specifications and all related bidding documents shall be submitted upon request to NYSDOT for its approval prior to such advertisement. The bid invitation and the contract to be let shall contain a statement that the contract will be awarded by the Grantee subject to the approval of NYSDOT.
  - b. Advertisement must be placed in newspapers, bulletins, trade journals and/or minority publications *for a minimum of three weeks* to insure free and open competition, unless a different period is approved, in writing, by NYSDOT.
  - c. After the bid opening and before award, the following contract award package shall be maintained, and shall be submitted to NYSDOT for their approval upon request:
    - (1) Proof of publication of advertising for bids.
    - (2) Certification of all bids received with tabulation of up to six lowest.
    - (3) Copy of the proposal signed by the bidder selected for award of the contract.
    - (4) If the award is not to be made to the lowest bidder, a statement of explanation.

## **EXHIBIT A**

### **Work Requirements for Mass Transportation Capital Project Agreement**

- (5) Bid amount broken down by fiscal shares.
- (6) Competitive bidding statement.
- (7) Recommendations for award.
- (8) Analysis of low bid, including identification of unbalanced bids.
- (9) Certification of quantities of items bid 25% or greater over the engineer's estimate.
- (10) Non-collusive Bidding Certification.
- (11) Bidder Debarment History Certification.
- (12) For contracts over \$500,000 or as otherwise required:
- (13) Schedule of proposed DBE participation; and
- (14) NYS Uniform Contracting Questionnaire (CCA-1).

The Grantee shall award the contract and file an executed copy thereof with NYSDOT.

4. Contract Modification: The Grantee shall provide, in a manner determined by NYSDOT, any and all contract modification documentation and requests for NYSDOT review and approval. NYSDOT approval of any contract modification is required for the Grantee to receive State funding, and/or State-administered Federal Aid as applicable, for any cost increase contained in such contract modification.

## EXHIBIT B

### Grantee Record Keeping Guidelines

The work of the project shall be performed in accordance with the following requirements:

1. *Progress Billings.* After approval of the Agreement, the Grantee may submit progress billings to NYSDOT for the State funding, and any applicable State-administered Federal share of approved costs shall be supported as follows:
  - a) Contracts/Consultant Agreements - Separate invoices or billings are required for each contract, each consultant agreement, and for work performed by Grantee employees. Billings for payments made on contracts or consultant agreements will be made on NYSDOT's Form A, as it may be amended, or other form or manner as acceptable to NYSDOT, and shall be supported by a copy of the applicable payment estimate(s) for contracts or consultant agreements.
  - b) Work by Grantee Employees - Billings for Grantee employees will be on NYSDOT's Form A, as it may be amended, or other form or manner as acceptable to NYSDOT, and shall be supported by an Engineer's Payroll Abstract for the period(s) covered by the billings, copies of payroll time sheets for the applicable billing period and copies of paid invoices or supporting documents for all non-personal service cost items in excess of \$250. Only those direct Project costs as defined in applicable regulations can be included in billings. The supporting documents for personal service and non-personal service costs are to include payroll time sheets, engineer=s payroll abstract leave and fringe benefit additives, and documented non-personal service costs.
  - c) NYSDOT will reimburse Grantee personal service, fringe benefits, non-personal service and related costs which are clearly identifiable to a specific project.
2. *Project Detail Ledgers.* For audit purposes, a Project Detail Ledger is required as the official accounting record of the Grantee to record and accumulate all cost transactions applicable to the Project. All costs recorded on the Project Detail Ledger should be for 100% of such costs without reduction for the non-Federal share, State funding, and for any applicable Federal share.

Every transaction listed on the Project Detail Ledger will be recorded in the same level of detail as the total from each supporting source document (no summarization of source document amounts). All transactions listed on the detail ledger will identify the source document for the transaction by referencing contract/estimate numbers, social security numbers (for time sheets and employee reimbursements), vendor or payee numbers for vouchers, etc. The applicable accounting system record date will also be included for each transaction, i.e. - pay period dates for time sheets, or voucher approval or date paid for payments to the consultant, employee reimbursements, etc.

The ledgers for the Project will include totals for all transactions recorded during: (1) each accounting month, (2) the fiscal year of the Grantee, and (3) for the Project life to date.
3. *Source Documents.* The Grantee will retain an official copy of consultant estimates, payroll time sheets, employee travel claims and all other original source documents for transactions listed on the Project Detail Ledger. These will be systematically filed in an order that will facilitate retrieval. All expenditure vouchers or other cost documents must also be traceable through the Grantee's disbursement process to copies of warrants or checks issued and to corresponding documentation maintained in the official accounting records of the Grantee's central finance office.
4. *Audit/Disallowances.* Project costs claimed or previously reimbursed that cannot be supported as outlined herein, are subject to audit disallowance by NYSDOT, the State Comptroller, Federal Transit Administration, and/or the U.S. Department of Transportation, Officer of the Inspector General. Amounts paid to the Grantee by NYSDOT that are subsequently disallowed by the Federal Government are subject to recovery by NYSDOT from the Grantee, or at the option of the State, will be offset or reduced against current or future reimbursement claims on the same or other Project

**APPENDIX A**

**STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

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

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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 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: [opa@esd.ny.gov](mailto: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](mailto: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)

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, color, 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 subcontract or 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

### U.S. GOVERNMENT (FTA) REQUIRED CLAUSES

For any conditions imposed upon a “contractor” or “subcontractor”, it shall be the recipient’s responsibility to notify and impose applicable requirements upon any such contractor or subcontractor. Notwithstanding the foregoing, other requirements applicable to the recipient or subrecipient may also apply to a contractor or subcontractor, or any other third party, for which the recipient or subrecipient shall also be responsible for imposing any such condition.

Any use of “recipient” or “subrecipient” shall mean the grant recipient of the associated agreement to which this appendix is incorporated and applies. Such terms are interchangeable and may be used contemporaneously. A recipient or subrecipient shall impose any requirements of this appendix, or associated agreement, to any sub-awardee.

Any use of “Sub-agreement” or “Sub-grant” shall mean an agreement through which the Recipient awards federal assistance to a Sub-grantee(s) to support or stimulate any of the Recipient’s or Sub-grantee(s) Projects or related activities supported under the Award, the accompanying Underlying Agreement, or Amendments thereto, but does not include a third-party contract, third-party subcontract, or lease.

Any use of “Sub-awardee” shall mean any entity or person that receives federal assistance from the FTA through an associated agreement, but is not a direct recipient of fund from, or a direct party to this agreement with, the State. Sub-awardee shall not include a Third-Party Contractor, Third Party Subcontractor, or Lessee.

Any use of “Third Party”, “Third-Party Participant”, or variations thereof, shall mean a grant recipient, sub-awardee – and contractor(s), subcontractor(s), or suppliers, thereof – whose work under the associated agreement is supported with FTA funding, eligible non-federal share dedicated to the Project, or is dedicated as an in-kind contribution eligible for as a non-federal share. Such terms are interchangeable and may be used contemporaneously.

**Fly America Requirements** – Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 40118 (the “Fly America” Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

**Buy America Requirements** – Applicability – Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$150,000)

Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, stating that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 60% domestic content for FY2016 and FY2017, a minimum 65% domestic content for FY2018 and FY2019 and a minimum 70% domestic content for FY2020 and beyond. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

**Charter Bus Requirements** – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and subrecipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, “Charter Service,” 49 CFR part 604, the terms and conditions of which are incorporated herein by reference. If a Recipient or any Third-Party Participant that has operated a chart bus in violation of federal laws and regulations, FTA may: (1) Require the Recipient or Third-Party Participant to take such remedial measures as FTA considers appropriate, or (2) Bar the Recipient or Third-Party Participant from receiving Federal transit funds.

**School Bus Requirements** – School Bus Requirements – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Pursuant to 49 USC 5323(f) or (g) as amended by MAP-21, 23 USC 133, 23 USC 142, and 49 CFR 605, recipients and subrecipients of FTA assistance shall not engage in school bus operations exclusively for transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients shall not use federally funded equipment, vehicles, or facilities. Violations. If a Recipient or any Third-Party Participant that has operated school bus service in violation of FTA’s School Bus laws and regulations, FTA may: (1) Require the Recipient or Third-Party Participant to take such remedial measures as FTA considers appropriate, or (2) Bar the Recipient or Third-Party Participant from receiving Federal transit funds.

**Cargo Preference** - Use of US-Flag Vessels – Applicability – Contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Recipient shall:

- a. use privately owned US-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for US flag commercial vessels;
- b. furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the recipient (through contractor in the case of a subcontractor's bill-of-lading.)
- c. include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material, or commodities by ocean vessel.

**Seismic Safety** – Applicability – Construction of new buildings or additions to existing buildings. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards required in USDOT Seismic Safety Regulations 49 CFR 41 and shall certify compliance to the extent required by the regulation. Contractor shall also ensure that all work performed under this contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.

**Energy Conservation** – Applicability – All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

**Clean Water** – Applicability – All Contracts and Subcontracts over \$250,000.

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$250,000 financed in whole or in part with FTA assistance.

**Safe Operation of Motor Vehicles**- Applicability – All

- a. Seat Belt Use. The Recipient agrees to implement Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 *Fed. Reg.* 19217), by:
  - Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles.
- b. Distracted Driving, Including Text Messaging While Driving. The Recipient agrees to comply with:
  - (1) Safety. The Recipient agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Recipient owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award,
  - (2) Recipient Size. The Recipient agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving, and
  - (3) Extension of Provision. The Recipient is encouraged to include the immediately preceding Provision of section (1) – (2) in each third party sub-agreement (if applicable) at each tier supported with federal assistance.

**Bus Testing** – Applicability – Rolling Stock/Turnkey

Contractor [manufacturer] shall comply with 49 USC A5323(c) and FTA's implementing regulation 49 CFR 665 and shall perform the following:

- 1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall **provide a copy of the final test report** to the recipient prior to the recipient's final acceptance of the first vehicle.
- 2) A manufacturer who releases a report under para. 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
- 3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to the recipient's final acceptance of the first vehicle. If configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- 4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the US before Oct. 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient

of such a vehicle and the details of that vehicle's configuration and major components.

**Pre-Award & Post-Delivery Audit Requirements** - Applicability – Rolling Stock/Turnkey Contractor shall comply with 49 USC 5323(l) and FTA's implementing regulation 49 CFR 663 and submit the following certifications:

- 1) Buy America Requirements: Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If contractor certifies compliance with Buy America, it shall submit documentation listing:
  - A. Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and
  - B. The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
  - C. Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications.
  - D. Federal Motor Vehicle Safety Standards (FMVSS): Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the buses will not be subject to FMVSS regulations.

**Lobbying** – Applicability - Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$250,000

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$250,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier, up to the recipient.

**Trafficking in Persons**

- (1) **Legal Authorities.** The Recipient and subrecipient agrees to comply with federal requirements and guidance, including:
  - (a) Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended, 22 U.S.C. § 7104(g), and
  - (b) The terms of this section, which have been derived from U.S. OMB regulatory guidance, "Award Term for Trafficking in Persons," 2 C.F.R. part 175, per U.S. OMB's direction.

- (2) Definitions. The Recipient agrees that ***for purposes of this section:***
- (a) Employee means either an individual who is employed by the Recipient or a Subrecipient, and is participating in a Project or related activities as set forth in the Underlying Agreement, or another person who is participating in a Project or related activities as set forth in the Underlying Agreement and is not compensated by the Recipient, including, but not limited to, a volunteer, or an individual whose services are contributed by the Recipient or Third Party Participant as an in-kind contribution toward the cost sharing requirements of the Recipient's Underlying Agreement.
  - (b) Forced labor means labor obtained by recruitment, harboring, transportation, provision, or other means of obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
  - (c) Private entity means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25, and includes a for-profit organization, or a nonprofit organization, including any nonprofit organization of higher education, hospital, or tribal organization other than one included in the definition of Indian Tribe at 2 C.F.R. § 175.25(b).
  - (d) Severe forms of trafficking in persons has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.
  - (e) Commercial sex act has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.
  - (f) Coercion has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.
  - (g) Recipient or Direct Recipient means a non-federal entity that receives an award directly from the State of New York to carry out an activity under a federal program. The term "Recipient" does not include a Subrecipient.
  - (h) Subrecipient or Sub-grantee means any entity or person that receives federal assistance provided by the State instead of from the State directly, but does not include a Third-Party Contractor, Third Party Subcontractor, or Lessee.
  - (i) Sub-agreement or Sub-grant means an agreement through which the Recipient awards federal assistance to its Subrecipient(s) to support or stimulate any of the Recipient's or Subrecipient's Projects or related activities supported under the Award, the accompanying Underlying Agreement, or Amendments thereto, but does not include a third-party contract, third party subcontract, or lease.
  - (j) "This Section" any references to "this section" shall mean and refer to the section titled, "**Trafficking in Persons**".
- (3) Provisions Applicable to All Recipients. The Recipient agrees to and assures that it, and any Subrecipients, will:
- (a) Provide Information. Inform FTA immediately of any information it receives from any source alleging a violation of the prohibitions listed in this section, and
  - (b) Sub-agreement Provision. Certify and include the following provision in any sub-agreement it enters with a private entity as defined above in section (2)(c) of this section:

*Recipient, or sub recipient, agrees that it and its employees that participate in the Recipient's Award, may not:*

- 1. Engage in severe forms of trafficking in persons during the period that the Recipient's Award is in effect,*
- 2. Procure a commercial sex act during the period that the Recipient's Award is in effect, or*
- 3. Use forced labor in the performance of the Recipient's Award or sub-agreements thereunder.*

(4) Provisions Applicable to a Private Entity Recipient. If the Recipient is a private entity, it agrees that:

(a) Prohibitions. It, its employees, its Subrecipients, and its Subrecipients' employees that participate in the Underlying Agreement will not:

- 1 Engage in severe forms of trafficking in persons during the period that the Recipient's or Subrecipient's Underlying Agreement is in effect,
- 2 Procure a commercial sex act during the period that the Recipient's or Subrecipient's Underlying Agreement is in effect, or
- 3 Use forced labor in the performance of the Recipient's or Subrecipient's Underlying Agreement or sub-agreements.

(b) Termination of Federal Assistance. Section 106(g) of the TVPA, as amended, 22 U.S.C. § 7104(g), and U.S. OMB regulatory guidance, "Award Term for Trafficking in Persons," 2 C.F.R. part 175, provide FTA and the State of New York, through receipt of federal funds, the right to unilaterally terminate the Underlying Agreement for a violation of that Act without penalty to the Federal Government or the State of New York, if FTA or the State of New York determines that the private entity Recipient or its Subrecipient:

- 1 Has violated a prohibition described above in section (4)(a) of this Section, or
- 2 Has an employee whose conduct is determined to have violated a prohibition described above in section (4)(a) of this Section because that employee's conduct is either:
  - a Associated with the performance of the Recipient's Underlying Agreement, or
  - b Imputed to the Recipient or Subrecipient using the standards of due process for conduct of an individual to an organization provided in:
    - (i) U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, or
    - (ii) U.S. OMB regulatory guidance, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180.

(5) Provisions Applicable to a Recipient That is Not a Private Entity. A Recipient that is not a private entity agrees that section 106(g) of the TVPA, as amended, 22 U.S.C. § 7104(g), and U.S. OMB regulatory guidance, "Award Term for Trafficking in Persons," 2 C.F.R. part 175, provides FTA, and consequently the State, the right to unilaterally terminate the Underlying Agreement, without penalty to the Federal Government or the State of New York, for a violation of that Act if FTA, or the

State of New York, determines that:

- (a) A private entity that is the Recipient or Subrecipient is determined to have engaged in severe forms of trafficking in persons during the period that the Recipient's or Subrecipient's Underlying Agreement is in effect; procured a commercial sex act during the period that the Recipient's or Subrecipient's Underlying Agreement is in effect; or used forced labor in the performance of the Recipient's or Subrecipient's Underlying Agreement or sub-agreements thereunder; or
  - (b) An employee of a private entity that is the Recipient or Subrecipient has engaged in severe forms of trafficking in persons during the period of time that the Recipient's or Subrecipient's Underlying Agreement is in effect; procured a commercial sex act during the period of time that the Recipient's or Subrecipient's Underlying Agreement is in effect; or used forced labor in the performance of the Recipient's or Subrecipient's Underlying Agreement or sub-agreements thereunder, and whose conduct described above is associated with the performance of the Recipient's or Subrecipient's Underlying Agreement; or is imputed to the Subrecipient using the standards for due process to impute the conduct of an individual to an organization as provided in U.S. OMB regulatory guidance, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, and U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200.
- (6) Remedies Other Than Termination of Federal Assistance. The Recipient or Subrecipient agrees that FTA's right to terminate federal assistance as provided in the TVPA and in sections (4)(b) and (5) are in addition to all other remedies for noncompliance available to the State and Federal Government under the associated grant agreement.

**Access to Records and Reports**– Applicability – As shown below. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a sub-grantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

2. Where the purchaser is a State and is an FTA recipient or a sub-grantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$250,000.

3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a sub-grantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where a purchaser which is an recipient, subrecipient, or a sub-grantee of an FTA recipient, and in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)(1)) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto, as provided by 49 CFR 18.39(i)(11).

FTA does not require the inclusion of these requirements in subcontracts.

**Federal Changes** – Applicability – All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the recipient and FTA, as they may be amended or promulgated from time to time during the term of the contract, to the extent that such are publicly available. Contractor's failure to comply shall constitute a material breach of the contract.

**Bonding Requirements** – Applicability – For those construction or facility improvement contracts or subcontracts exceeding \$250,000, FTA may accept the bonding policy and requirements of the recipient, provided they meet the minimum requirements for construction contracts as follows:

a. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantees" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

- b. A performance bond on the part to the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from Contractors are as follows:
- (1) 50% of the contract price if the contract price is not more than \$1 million;
  - (2) 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
  - (3) \$2.5 million if the contract price is more than \$5 million.
- d. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.

#### Bid Bond Requirements (Construction)

- (a) Bid Security - A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.
- (b) Rights Reserved - In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient).

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of (Recipient), shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

**Performance and Payment Bonding Requirements (Construction)**

The Contractor shall be required to obtain performance and payment bonds as follows:

(a) Performance bonds

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) Payment bonds

1. The penal amount of the payment bonds shall equal:
  - (i) Fifty percent of the contract price if the contract price is not more than \$1 million.
  - (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
  - (iii) Two and one half million if the contract price is more than \$5 million.
2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the (Recipient's) interest.

(a) The following situations may warrant a performance bond:

1. (Recipient) property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).
2. A contractor sells assets to or merges with another concern, and the (Recipient), after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.
3. Substantial progress payments are made before delivery of end items starts.
4. Contracts are for dismantling, demolition, or removal of improvements.

(b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).

2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.

The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the (Recipient's) interest.

(d) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

1. The penal amount of payment bonds shall equal:

- (i) Fifty percent of the contract price if the contract price is not more than \$1 million;
- (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
- (iii) Two and one half million if the contract price is increased.

#### Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The (recipient) shall determine the amount of the advance payment bond necessary to protect the (Recipient).

#### Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The (recipient) shall determine the amount of the patent indemnity to protect the (Recipient).

#### Warranty of the Work and Maintenance Bonds

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment [as provided below], furnish separate Maintenance (or

Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

**Clean Air** – Applicability – All contracts over \$250,000.

1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. 2) Contractor shall include these requirements in each subcontract exceeding \$250,000 financed in whole or in part with FTA assistance.

**Recycled Products** – Applicability – All contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds.

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

**Davis-Bacon and Copeland Anti-Kickback Acts** – Applicability -Construction contracts and subcontracts, including actual construction, alteration and/or repair, including decorating and painting, over \$2,000

**(1) Minimum wages** –

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4).

Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) Responsibilities

(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
- (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

- (iv) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (v) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside, in a separate account, assets for the meeting of obligations under the plan or program.
- (vi) (A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:
  - (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - (2) The classification is utilized in the area by the construction industry; and
  - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (1)(v)(B) or (1)(v)(C) of this section, shall be paid to all workers performing

work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding - The recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the grantee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the recipient for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(ii)(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(ii)(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(ii)(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees –

(i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the

applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and

journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may, by appropriate instructions, require, and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of Eligibility - (i) By entering into this contract, contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in 18 USC 1001.

**Contract Work Hours & Safety Standards Act** – Applicability – Contracts over \$250,000

(1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall

be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

**Awards Involving Commerce.** The Recipient agrees to comply, and assures that each Third-Party Participants will comply, with the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.* to the extent that the FLSA applies to employees performing work with federal assistance provided through the Underlying Agreement involving commerce, or as the Federal Government otherwise determines applicable.

**No Government Obligation to Third Parties** - Applicability – All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

(1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**Program Fraud and False or Fraudulent Statements or Related Acts** – Applicability – All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 *et seq.* and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of

the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

- (2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.
- (3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**Termination** – Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$250,000

a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effectuated by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions.

If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

d. **Waiver of Remedies for any Breach** If the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. **Termination for Convenience (Professional or Transit Service Contracts)** the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. **Termination for Default (Supplies and Service)** If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

g. **Termination for Default (Transportation Services)** If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

h. **Termination for Default (Construction)** If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or

any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. the recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work.

Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If

termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

**Government-wide Debarment and Suspension (Nonprocurement)** – Applicability – Contracts over \$25,000

The Recipient/subrecipient agrees to the following:

(1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following:

(a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third-Party Participant that is debarred or suspended except as authorized by:

- (i) U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200,
- (ii) U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and
- (iii) Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note,

(b) It will review the U.S. GSA "System for Award Management," <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and

(c) It will include, and require each of its Third-Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

- (i) Will comply with Federal debarment and suspension requirements, and
- (ii) Reviews the "System for Award Management" at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and
- (iii) If the Recipient suspends, debars, or takes any similar action against a Third-Party Participant or individual, the Recipient will provide immediate written notice to the:
  - (a) FTA Regional Counsel for the Region in which the Recipient is located or

- implements the Project,  
(b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or  
(c) FTA Chief Counsel,

**Contracts Involving Federal Privacy Act Requirements** – Applicability - When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

**Civil Rights Requirements**– Applicability – All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

a. **Nondiscrimination in Federal Public Transportation Programs**. The Recipient agrees to, and assures that each Third-Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA’s “Nondiscrimination” statute):

- (1) FTA’s “Nondiscrimination” statute prohibiting discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, (g) Age, or (h) Gender identity and
- (2) The FTA “Nondiscrimination” statute’s prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including

discrimination in employment or business opportunity,

(3) Except as FTA determines otherwise in writing:

(a) General. Follow:

(i) The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and

(ii) Other applicable Federal guidance that may be issued, but

(b) for the exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program;

b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third-Party Participant will:

(1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin,

(2) Comply with:

(a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.,

(b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and

(c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and

(3) Except as FTA determines otherwise in writing, follow:

(a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance.

(b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and

(c) Other applicable Federal guidance that may be issued;

c. Equal Employment Opportunity.

(1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third-Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and:

(a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.,

(b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

(c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and

(d) Comply with FTA Circular 4704.1 other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing.

(2) General. The Recipient agrees to:

(a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: (1) Race, (2) Color, (3) Religion, (4) Sex, (5) Disability, (6) Age, or (7) National origin,

(b) Take affirmative action that includes, but is not limited to: (1) Recruitment advertising, (2) Recruitment, (3) Employment, (4) Rates of pay, (5) Other forms of compensation, (6) Selection for training, including apprenticeship, (7) Upgrading, (8) Transfers, (9) Demotions, (10) Layoffs, and (11) Terminations, with the exception of Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer".

(3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third-Party Participant, with:

(a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and

(b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

d. Disadvantaged Business Enterprise.

(1) To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third-Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project, and Recipient agrees to comply with:

(a) Section 1101(b) of Map-21, 23 U.S.C. § 101 note,

(b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and

(c) Federal transit law, specifically 49 U.S.C. § 5332,

(2) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26,

(3) Assurance. As required by 49 C.F.R. § 26.13(a),

(4) The Recipient provides assurance that:

(a) The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26.

(b) The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to

ensure nondiscrimination in the award and administration of DOT-assisted contracts.

(c) Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement.

(d) Upon notification to the Recipient of its failure to abide by DBE requirements, the Federal Government may impose sanctions as provided for in 49 C.F.R. part 26, as implemented by the State through this agreement, and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.,

(5) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under Map-21 and previous legislation.

e. Nondiscrimination on the Basis of Sex

The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

f. Nondiscrimination on the Basis of Age

The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including:

- (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age,
- (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, which implements the ADEA,
- (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds,
- (4) U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and
- (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

g. Nondiscrimination on the Basis of Disability

The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities:

- (1) Federal laws, including:
  - (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities,
  - (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to

individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of “employer,”

- (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities,
  - (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and
  - (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities,
- (2) Federal regulations, including:
- (a) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37,
  - (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27,
  - (c) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. part 39,
  - (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. part 1192 and 49 C.F.R. part 38,
  - (e) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. part 35,
  - (f) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36,
  - (g) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630,
  - (h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. part 64, Subpart F,
  - (i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194, and
  - (j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609, and
- (3) Other applicable Federal civil rights and nondiscrimination guidance,

h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of:

- (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq.,
- (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and
- (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,

i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following:

- (1) Executive Order No. 13166, “Improving Access to Services for Persons with Limited English Proficiency,” August 11, 2000, 42 U.S.C. § 2000d-1 note, and

(2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005,

j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to:

- (1) Comply with other applicable Federal nondiscrimination laws and regulations, and
- (2) Follow Federal guidance prohibiting discrimination.

k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

**Breaches and Dispute Resolution** – Applicability – All contracts over \$250,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

**Patent and Rights Data** –

Contracts involving experimental, developmental, or research work (\$10,000 or less, except for construction contracts over \$2,000).

**Patent Rights**

A. General. The Recipient agrees that:

- (1) Depending on the nature of the Project, the Federal Government may acquire patent rights when the Recipient or Third-Party Participant produces a patented or patentable: (a) Invention, (b) Improvement, or (c) Discovery,
- (2) The Federal Government's rights arise when the patent or patentable information is: (a) Conceived under the Project, or (b) Reduced to practice under the Project, and
- (3) When a patent is issued or patented information becomes available as described in Patent Rights Section A(2), the Recipient agrees to: (a) Notify FTA immediately, and (b) Provide a detailed report satisfactory to FTA,

B. Federal Rights.

The Recipient agrees that:

- (1) Its rights and responsibilities, and the rights and responsibilities of each Third-Party Participant, in that federally funded invention, improvement, or discovery will be determined as provided by applicable Federal laws, regulations, and guidance, including any waiver thereof, and
- (2) Unless the Federal Government determines otherwise in writing – irrespective of the Recipient's status or the status of any Third-Party Participant as a large business, a small business, a State government, a State instrumentality, a local government, an Indian tribe, a nonprofit organization, an institution of higher education, or an individual – the Recipient agrees to transmit the Federal Government's patent rights to FTA as specified in:
  - (a) 35 U.S.C. § 200 et seq., and
  - (b) U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. part 401, and

C. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19:

- (1) License fees and royalties for patents, patent applications, and inventions derived from the Project are program income, and
- (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except:
  - (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and
  - (b) As FTA determines otherwise in writing.

Rights in Data and Copyrights

A. Definition of "Subject Data" means recorded information, subject to (1) Copyright, whether or not copyrighted, and (2) Delivery, that which is delivered or specified to be delivered under the Underlying Agreement.

B. Examples of “Subject Data.” Examples of “subject data” include, but are not limited to:  
(a) Computer software, (b) Standards, (c) Specifications, (d) Engineering drawings and associated lists, (e) Process sheets, (f) Manuals, (g) Technical reports, (h) Catalog item identifications, and (i) Related information, but do not include: (1) Financial reports, (2) Cost analyses, or (3) Other similar information used for Project administration,

C. General Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Recipient’s Project supported by the Underlying Agreement:

- (1) Prohibitions. The Recipient may not:
  - (a) Publish or reproduce any subject data in whole or in part, or in any manner or form, or
  - (b) Permit others to do so, but
- (2) Exceptions. The prohibitions of Rights in Data and Copyrights C(1) do not apply to:
  - (a) Publications or reproductions for the Recipient’s own internal use,
  - (b) An institution of higher learning,
  - (c) The portion of subject data that the Federal Government has previously released or approved for release to the public, or
  - (d) The portion of data that has the Federal Government’s prior written consent for release,

D. Federal Rights in Data and Copyrights. The Recipient agrees that:

- (1) License Rights. The Recipient must provide a license to its “subject data” to the Federal Government, which license is: (a) Royalty-free, (b) Non-exclusive, and (c) Irrevocable,
- (2) Uses. The Federal Government’s license must permit the Federal Government to take the following actions provided those actions are taken for Federal Government purposes: (a) Reproduce the subject data, (b) Publish the subject data, (c) Otherwise use the subject data, and (d) Permit other entities or individuals to use the subject data, and

E. Special Federal Rights in Data for Research, Development, Demonstration, Deployment, and Special Studies Projects. In general, FTA’s purpose in providing Federal funds for a research, development, demonstration, deployment, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to the Recipient and its Third-Party Participants, therefore, the Recipient agrees that:

- (1) Publicly Available Report. When the Project is completed, it must provide a Project report that FTA may publish or make available for publication on the Internet,
- (2) Other Reports. It must provide other reports pertaining to the Project that FTA may request,
- (3) Availability of Subject Data. FTA may make available to any FTA Recipient or any of its Third-Party Participants at any tier of the Project, either FTA’s copyright license to the subject data or a copy of the subject data, except as the Federal Government determines otherwise in writing,
- (4) Identification of Information. It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA,
- (5) Incomplete Project. If the Project is not completed for any reason whatsoever, all data developed under the Project becomes “subject data” and must be delivered as the Federal Government may direct, but

- (6) Exception. Rights in Data and Copyrights Section E does not apply to an adaptation of automatic data processing equipment or program that is both:
  - (a) For the Recipient's use, and
  - (b) Acquired with FTA capital program funding,

F. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19:

- (1) License fees and royalties for copyrighted material or trademarks derived from Project are program income, and
- (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except:
  - (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and
  - (b) As FTA determines otherwise in writing,

G. Hold Harmless. Upon request by the Federal Government, the Recipient agrees that:

- (1) Violation by Recipient.
  - (a) If it willfully or intentionally violates any:
    - (1) Proprietary rights, (2) Copyrights, or (3) Right of privacy, and
  - (b) Its violation occurs from any of the following uses of Project data:
    - (1) Publication, (2) Translation, (3) Reproduction, (4) Delivery, (5) Use, or (6) Disposition, then
  - (c) It will indemnify, save, and hold harmless against any liability, including costs and expenses of:
    - (1) The Federal Government's officers acting within the scope of their official duties,
    - (2) The Federal Government's employees acting within the scope of their official duties, and
    - (3) Federal Government's agents acting within the scope of their official duties, but
- (2) Exceptions. The Recipient will not be required to indemnify the Federal Government for any liability described in Rights in Data and Copyrights Section G(1) if:
  - (a) Violation by Federal Officers, Employees or Agents. The violation is caused by the wrongful acts of Federal employees or agents, or
  - (b) State law. If indemnification is prohibited or limited by applicable State law,

H. Restrictions on Access to Patent Rights. Nothing in this Rights in Data and Copyrights section pertaining to rights in data either:

- (1) Implies a license to the Federal Government under any patent, or
- (2) May be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent,

I. Data Developed Without Federal Funding or Support. The Recipient understands and agrees that in certain circumstances it may need to provide data developed without any Federal funding or support to FTA. Nevertheless:

- (1) Protections. Rights in Data and Copyrights Sections A, B, C, and D generally do not apply to data developed without Federal funding, even though that data may have been used in connection with the Project, and
- (2) Identification of Information. The Recipient understands and agrees that the Federal

Government will not be able to protect data developed without Federal funding from unauthorized disclosure unless that data is clearly marked “Proprietary” or “Confidential,” and

J. Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to release Project data and information the Recipient submits to the Federal Government as required by:

- (1) The Freedom of Information Act, 5 U.S.C. § 552,
- (2) Another applicable Federal law requiring access to Project records,
- (3) U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” specifically 49 C.F.R. § 19.36(d), or
- (4) Other applicable Federal regulations and guidance pertaining to access to Project records.

**Transit Employee Protective Provisions** – Applicability – Contracts for transit operations except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

**Public Transportation Employee Protective Arrangements**

The Recipient agrees that 49 U.S.C. § 5333(b) requires employee protective arrangements to be in place as a condition of award of FTA assistance made available or appropriated for FTA programs involving public transportation operations. U.S. DOL recognizes the following categories of arrangements:

1. U.S. DOL Certification When its Project involves public transportation operations and is financed with funding made available or appropriated for 49 U.S.C. §§ 5307, 5309, 5312, 5337, or 5339, as amended by Map-21, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a Certification of employee protective arrangements before FTA may provide financial assistance for the Project. Therefore, the Recipient understands and agrees, and assures that any Third-Party Participant providing public transportation operations will agree, that:
  - (a) It must carry out the Project as provided in its U.S. DOL Certification, which contains the terms and conditions that U.S. DOL has determined to be fair and equitable to protect the interests of any employees affected by the Project,
  - (b) It must comply with 49 U.S.C. § 5333(b), and any future amendments thereto,
  - (c) It will follow the U.S. DOL guidelines, “Guidelines, Section 5333(b), Federal Transit Law,” 29 C.F.R. part 215, except as U.S. DOL determines otherwise in writing,
  - (d) It must comply with the terms and conditions of the U.S. DOL certification of public transportation employee protective arrangements for the Project, which certification is dated as identified on the Underlying Agreement, including:
    - (1) Alternative comparable arrangements U.S. DOL has specified for the Project,
    - (2) Any revisions U.S. DOL has specified for the Project, or
    - (3) Both, and
  - (e) It must comply with the following documents and provisions incorporated by reference in and made part of the Underlying Agreement for the Project:
    - (1) The U.S. DOL certification of public transportation employee protective

arrangements for the Project, which certification is dated as identified on the Underlying Agreement,

- (2) The documents cited in that U.S. DOL certification for the Project,
- (3) Any alternative comparable arrangements that U.S. DOL has specified for the Project, and
- (4) Any revisions that U.S. DOL has specified for the Project,

2. Special Warranty When its Project involves public transportation operations, and is financed with funding made available or appropriated for 49 U.S.C. § 5311, as amended by Map-21, for former 49 U.S.C. § 5311 in effect in FY 2012, or a previous fiscal year, or for section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, U.S. DOL will provide a Special Warranty for those projects, including projects under the Tribal Transit Program. Therefore, the Recipient understands and agrees, and assures that any Third-Party Participant providing public transportation operations will agree, that:

- (a) It must comply with Federal transit laws, specifically 49 U.S.C. § 5333(b),
- (b) Follow the U.S. DOL guidelines, “Guidelines, Section 5333(b), Federal Transit Law,” 29 C.F.R. part 215, except as U.S. DOL determines otherwise in writing,
- (c) It will comply with the U.S. DOL Special Warranty for its Project that is most current on the date when it executed the Underlying Agreement, and documents cited therein, including: (1) Any alternative comparable arrangements U.S. DOL has specified for the Project, (2) Any revisions U.S. DOL has specified for the Project, or (3) Both, and
- (d) It will comply with the following documents and provisions incorporated by reference in and made part of the Underlying Agreement:
  1. The U.S. DOL Special Warranty for its Project,
  2. Documents cited in that Special Warranty,
  3. Alternative comparable arrangements U.S. DOL specifies for the Project, and
  4. Any revisions that U.S. DOL has specified for the Project, and

3. Special Arrangements for 49 U.S.C. § 5310 Projects. The Recipient understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not “necessary or appropriate” to apply the conditions of 49 U.S.C. § 5333(b) to Subrecipients participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make the following exceptions:

- (a) FTA will make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and
- (b) FTA reserves the right to make other exceptions as it deems appropriate.

**Disadvantaged Business Enterprise (DBE)** – Applicability – Contracts over \$10,000 awarded on the basis of a bid or proposal offering to use DBEs

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial

Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

**Prompt Payment** – Applicability – All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

**Incorporation of Federal Transit Administration (FTA) Terms** – Applicability – All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

**Drug & Alcohol Abuse and Testing** – Applicability – Operational service contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The Contractor agrees to comply with the following Federal substance abuse regulations:

- (a) Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182,
- (b) Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by Map-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.

**Other Federal Requirements:**

**Full and Open Competition** – In accordance with 49 U.S.C. § 5325, all procurement transactions shall be conducted in a manner that provides full and open competition.

**Prohibition Against Exclusionary or Discriminatory Specifications** – Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

**Conformance with ITS National Architecture** – Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

**Safeguarding Protected Personally Identifiable Information (PPI)**

U.S. DOT Common Rules requires Recipient to implement, and require any sub-grantee, if any, to implement reasonable measures to safeguard protected personally identifiable information as well as any information that the FTA or pass-through entity designates as sensitive.

**Access Requirements for Persons with Disabilities** – Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

**Notification of Federal Participation** – To the extent required by law, in the announcement of any third-party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third-party contract.

**Interest of Members or Delegates to Congress** - No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

**Ineligible Contractors and Subcontractors** - Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

**Other Contract Requirements** - To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

**Compliance with Federal Regulations** – Any of Recipient's contracts shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

**Real Property** - Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by Map-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's

failure to so comply shall constitute a material breach of this contract.

Recipient and any third-party participant(s) shall comply with 49 U.S.C. § 303, 23 C.F.R part 774, 54 U.S.C. §306108, 54 U.S.C. 312501 *et. seq.*, 36 C.F.R. part 800, 42 U.S.C. §1996, §3161 note and Executive Order No. 13007 as such actions may relate to: Parks, Recreation Areas, Wildlife and Waterfowl Refuges; Historic Sites, Archeological and Historic Preservation, Protection of Historic Properties; preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act; compliance with environmental mitigation measures related to environmental assessments, environmental impact statements, categorical exclusions, memoranda of agreement, documents required under 49 U.S.C. § 303, and other environmental documents.

**Access to Services for Persons with Limited English Proficiency** - To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

**Environmental Justice** - Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following:

- (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and
- (2) DOT Order 5610.2, "Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and
- (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

**Environmental Protections** – Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: The National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

**Geographic Information and Related Spatial Data** – Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

**Geographic Preference**

All project activities must be advertised without geographic preference, except as permitted by federal law, regulation, requirement or guidance. Such exception may include, but may not be limited to, A/E contracts under certain circumstances and preference for hiring veterans on transit construction projects.

### **Organizational Conflicts of Interest**

The Recipient and subrecipient, if any, agrees that it will not enter a procurement that involves a real or apparent organizational conflict of interest described as follows:

- (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage:
  - (a) To that Third-Party Participant or another Third-Party Participant performing the Project work, and
  - (b) That impairs that Third Party Participant's objectivity in performing the Project work, or
- (2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions,
- (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient:
  - (a) Any instances of organizational conflict of interest, or
  - (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and
- (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

### **Ethics**

Standards of Conduct. At a minimum, the Recipient / Subrecipients will establish and maintain written Standards of Conduct covering conflicts of interest that:

- (1) Apply to the following individuals who have a present or potential financial interest, or other significant interest, such as a present or potential employment interest in the selection, award, or administration of a third-party contract or subcontract:
  - (a) The Recipient or its Subrecipients' officers, employees, board members, or agents engaged in the selection, award, or administration of any third-party agreement,
  - (b) The immediate family members or partners of those listed above in section (1)(a) of this Master Agreement, and
  - (c) An entity or organization that employs or is about to employ any person that has a relationship with the Recipient or its Subrecipient listed above in sections (1)(a) and (b) of this Master Agreement;
- (2) Prohibit those individuals listed above in section (1) from:
  - (a) Engaging in any activities involving the Recipient's or any of its Subrecipients' present or potential Third-Party Participants at any tier, including selection, award, or administration of a third-party agreement in which the individual has a present or potential financial or other significant interest, and
  - (b) Accepting a gratuity, favor, or anything of monetary value from a present or potential Third-Party Participant in the Recipient's Underlying Agreement, unless the gift is unsolicited and has an insubstantial financial or nominal intrinsic value; and

(3) Establish penalties, sanctions, or other disciplinary actions for violations, as permitted by state or local law or regulations, that apply to those individuals listed above in section (1) and the Recipient's or Subrecipient's Third Party Participants.

**Federal Single Audit Requirements for State Administered Federally Aid Funded Projects**

Non Federal entities that expend \$750,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, "Audits of States, Local Governments, and Non Profit Organizations" (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable). Non- Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non- Federal entities that expend less than the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B-- Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency the New York State Department of Transportation, the New York State Comptroller's Office and the U.S. Governmental Accountability Office (GAO).

Non- Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

**Catalog of Federal Domestic Assistance (CFDA) Identification Number**

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

**The CFDA number for the Federal Transit Administration**

Nonurbanized Area Formula (Section 5311) is 20.509. A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable) agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

**Veterans Preference** As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

- (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third-party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
- (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

Res No. 6

November 12, 2019

To: Richard M. Finn, City Manager  
From: Michael J. DeMarco, Planner  
Subject: New York State Department of Environmental Conservation (NYS DEC)  
Urban and Community Forestry Grant Program

At the October 29, 2019 meeting, the City Council informally agreed to have Staff apply for grant funding through the NYS DEC's Urban and Community Forestry Grant Program for tree planting. This grant will supplement the cost of tree maintenance efforts over the next year in a continued effort to mitigate risk associated with potentially hazardous trees along City streets, and within our parks and playgrounds.

The City's recently completed tree inventory and management plan has provided accurate information on the health, risk, recommended maintenance and benefits associated with City owned trees.

Under this grant program, applications for tree maintenance do require a 25% match from the City. As you are aware, the City takes a proactive approach to tree maintenance and uses the tree management plan as a guideline for this work. Staff is recommending the use of an in-kind labor match of \$12,500 to allow the City to apply for the maximum grant amount of \$50,000. The total project cost would be \$62,500. The 25% City match would consist of in-kind labor costs that are incurred from in-house tree maintenance work that we already do. Essentially, the match for this grant would be at no additional cost other than continuing our annual tree maintenance efforts. The application requires that an authorizing resolution be adopted by the City Council.

The attached resolution approves and endorses the City's application to the NYSDEC for grant funding under Round 15 of the Urban and Community Forestry Grant Program for a project known as the City of Watertown Street and Park Tree Maintenance Project and authorizes and directs the City Manager to file an application for funding in an amount not to exceed \$50,000.

ACTION: City Manager recommends approval.



# RESOLUTION

Page 1 of 1

Approval of Application for New York State Department of Environmental Conservation (NYS DEC) Urban and Community Forestry Grant Program

- Council Member COMPO, Sarah V.
- Council Member HENRY-WILKINSON, Ryan J.
- Council Member HORBACZ, Cody J.
- Council Member RUGGIERO, Lisa L.
- Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

### ***Introduced by***

WHEREAS the New York State Department of Environmental Conservation (NYSDEC) has announced that grant funding is available through the Urban and Community Forestry Grant Program, and

WHEREAS the City of Watertown has made the care and management of the City’s urban forest a priority over the last two decades in the wake of several devastating storms in the 1990’s, and

WHEREAS the City Council desires to apply to the program to fund a Street and Park Tree Maintenance Project, and

WHEREAS City staff will utilized data from the recently completed 2018 Tree Inventory and Management Plan to identify trees recommended for removal and pruning to reduce potential risk to the public right of way, and

WHEREAS Tree Watertown, the City’s Street Tree Advisory Board, has recommended that the City Council apply for funding for a Street and Park Tree Maintenance Project,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves and endorses the City’s application to the NYSDEC for grant funding under Round 15 of the Urban and Community Forestry Grant Program for a project known as the City of Watertown Street and Park Tree Maintenance Project, and

BE IT FURTHER RESOLVED that City Manager Richard M. Finn is hereby authorized and directed to file an application for funding in an amount not to exceed \$50,000, and upon approval of said request, to enter into and execute a project agreement with the NYSDEC for such financial assistance to the City of Watertown Street and Park Tree Maintenance Project.

### ***Seconded by***

Res No. 7

November 14, 2019

To: The Honorable Mayor and City Council

From: Richard M. Finn, City Manager

Subject: Resolution Officially Establishing a Publicity Fund for Use by the Thompson Park Conservancy (Zoo)

Based on recent direction by the City Council and in full compliance with the approved FY 2019-20 Budget, City Staff has worked with our City Attorney to establish a Publicity Fund in an amount of \$25,000, which would be provided to the Thompson Park Conservancy for the Zoo. Funds to cover this cost are included in the approved FY 2019-20 Budget.

The attached Resolution is designed to serve as an immediate short-term solution for the Zoo. City Staff will now turn its attention to the development of a long-term multi-year assistance program to help ensure that the Zoo operation is permanently restored to a strong enduring fiscal condition. It is Staff's goal to work with the Thompson Park Conservancy to develop such a plan and present it to Council within 90 to 120 days.

Attached for Council consideration is a Resolution that will establish a Publicity Fund.

# RESOLUTION

Page 1 of 1

Establishing a Publicity Fund Pursuant to Section 13-b of the New York General City Law

Council Member COMPO, Sarah V.  
 Council Member HENRY-WILKINSON, Ryan J.  
 Council Member HORBACZ, Cody J.  
 Council Member RUGGIERO, Lisa L.  
 Mayor BUTLER, Jr., Joseph M.  
 Total .....

YEA	NAY

### *Introduced by*

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WHEREAS, Section 13-b of the New York General City Law authorizes any city in the State to establish a publicity fund, by resolution, to be expended for purposes as may tend to promote the general commercial and industrial welfare of the City, in an amount not exceeding Twenty-Five Thousand Dollars (\$25,000.00) per annum; and

WHEREAS, the City Council of the City of Watertown believes promotion of the New York State Zoo at Thompson Park by attracting persons to education, recreation, and general learning about State wildlife and habitats, tends to promote the general commercial welfare of the City; and

WHEREAS, the City Council of the City of Watertown desires to establish a publicity fund to promote the general commercial welfare of the City by supporting the Thompson Park Conservancy and its efforts in promoting the New York State Zoo at Thompson Park;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Watertown that the City shall establish a publicity fund in the principal sum not exceeding Twenty-Five Thousand Dollars (\$25,000.00) per annum for the retention of the services of the Thompson Park Conservancy, as operators of the New York State Zoo at Thompson Park, to continue its programs of public education, recreation, promotion, marketing, and learning which in turn, will promote the general commercial welfare of the City.

### *Seconded by*

Res No. 8

November 15, 2019

To: The Honorable Mayor and City Council

From: Richard M. Finn, City Manager

Subject: Approving Agreement for Publicity Fund Services Between the City of Watertown and the Thompson Park Conservancy, Inc.

Attached is an Agreement for Publicity Fund Services Between the city of Watertown and the Thompson Park Conservancy, Inc. The term of this Agreement is one year, beginning July 1, 2019. The Agreement indicates that the funds shall be used for promoting public purpose, along with other eligible expenses. The Agreement also defines what the City considers eligible and ineligible activities. The Agreement provides up to \$25,000 for eligible expenses.

Funding for this Agreement is from the newly established Publicity Fund, which allows the Thompson Park Conservancy, Inc. to cover their marketing and promotional costs, along with other eligible expenses. A Resolution approving the Agreement has been prepared for Council consideration.

# RESOLUTION

Page 1 of 1

Approving Agreement for Publicity Fund Services Between the City of Watertown and the Thompson Park Conservancy, Inc.

- Council Member COMPO, Sarah V.
- Council Member HENRY-WILKINSON, Ryan J.
- Council Member HORBACZ, Cody J.
- Council Member RUGGIERO, Lisa L.
- Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

### *Introduced by*

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WHEREAS the Lessor, City of Watertown, owns the facility known as Thompson Park, located in the City of Watertown, County of Jefferson, State of New York, and

WHEREAS the Lessor has entered into an Agreement with the Tenant, Thompson Park Conservancy, Inc., to lease certain premises located at the Park for the operation of the "Thompson Park Zoo" by Lease dated December 1997, and

WHEREAS since that time, the City of Watertown has provided both financial and in-kind services in support of the Thompson Park Conservancy, and

WHEREAS the City Council has determined that it is in the best interest of the taxpayers of the City of Watertown to provide direct support to the Thompson Park Conservancy to assist with operations as detailed in the attached Agreement,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the Agreement for Publicity Fund Services Between the City of Watertown and the Thompson Park Conservancy, Inc., a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute this Agreement on behalf of the City of Watertown.

### *Seconded by*

**AGREEMENT FOR PUBLICITY FUND SERVICES**

**BETWEEN**

**THE CITY OF WATERTOWN, NEW YORK**

**and**

**THOMPSON PARK CONSERVANCY, INC.**

This Agreement made this \_\_\_\_ day of November, 2019, by and between the City of Watertown, New York (the “City”) and Thompson Park Conservancy, Inc. (“the Conservancy”).

**PREAMBLE**

WHEREAS the City owns a public park known as Thompson Park located in the City of Watertown; and

WHEREAS the Conservancy currently leases certain premises located in Thompson Park for its operation of the “Thompson Park Zoo,” and also known as the “New York State Zoo at Thompson Park,” pursuant to a lease agreement between the parties effective July 1, 2019; and

WHEREAS the City provides both financial and in-kind services in support of the Conservancy’s operations including, but not limited to, leasehold concessions which benefit City-owned buildings within the leased premises, and maintenance of those buildings as being City property; and maintenance of grounds which the City would otherwise maintain but for the Conservancy’s Lease; and

WHEREAS the Conservancy has evidenced a long-standing commitment to the promotion of education, amusement, and recreation of the citizens of the City and has many programs dedicated to the overall public good; and

WHEREAS the work of the Conservancy serves the public and/or municipal purposes set forth at Section 21 of the New York General City Law, and, thereby, promotes the general welfare of the citizens of the City; and

WHEREAS the City desires to enter into a contract with the Conservancy to provide those services which fall within the ambit of General City Law Section 21 in furtherance of the City’s “public or municipal purposes;”

NOW, THEREFORE, the parties, in consideration of the mutual covenants and agreements contained herein, hereby mutually agree as follows:

## **AGREEMENT**

**Article I** DESCRIPTION OF SERVICES. The Conservancy will continue to provide services which advance the public or municipal purposes of promoting education, amusement and recreation for the citizens of the City. Those services include the maintenance of equipment which promotes the health of the animals in the zoo; the recruiting of volunteers for guiding tours and public education; the maintenance of specific exhibits which enlighten the public and promote the public's amusement and recreation, all of which are deserving of public support to the end of assisting the City in meeting its responsibilities and authority under Section 21 of the General City Law.

**Article II** ELIGIBLE ACTIVITIES. Eligible activities of the Conservancy which shall be considered reimbursable by the City as promoting a public purpose involve the following:

- a. Recruiting and training of volunteers;
- b. Operating expenses of zookeepers' space and equipment;
- c. Educational support for animal handlers and safety training for zoo staff;
- d. Maintenance of particular animal holding areas such that the animals will be contained in a safe and comfortable environment; and
- e. The provision of electrical power and water to various exhibits and holding areas of the zoo.
- f. Any expenses used for the promotion/marketing of the Zoo, including salary/benefits of employees for the time they engaged in promotional/marketing activities.

**Article III** INELIGIBLE ACTIVITIES. Activities of the Thompson Park Conservancy which shall be ineligible for reimbursement include, but are not limited to, paying off lines of credit, animal acquisition, salaries, insurance, interest, purchases of equipment which is not directly related to the care of animals or the education of the public, or program activities solely directed toward or restricted to organizational membership.

**Article IV** TERM OF THIS AGREEMENT. The term of this Agreement shall be from July 1, 2019 through June 30, 2020.

**Article V** MANNER OF PAYMENT.

- a. The City agrees to provide Twenty-Five Thousand Dollars (\$25,000.00) to the Thompson Park Conservancy for the term specified above.
- b. Payment shall be made by the City Comptroller. The annual payment will be made on or after November 15, 2019. Payment will only be made upon the City's receipt of a fully executed copy of this Agreement and a signed City Invoice Form.

- c. Payment shall be made by the City Comptroller upon the receipt of an executed Service Agreement between the City of Watertown and the Thompson Park Conservancy, Inc. The Conservancy shall on a monthly basis provide a verified list of expenditures made which used City funds provided under this Agreement.

**Article VI** PROVISIONS OF LAW. All provisions of law required to be made as part of this Agreement are hereby deemed incorporated herein. Performance of the terms and conditions of this Agreement shall be subject to, and in conformance with, all applicable laws.

**Article VII** ANNUAL REPORT. The Conservancy will provide the City of Watertown with a copy of its annual financial report. If not included in the annual financial report, an additional report shall be submitted which details the services provided by the Conservancy to the citizens of Watertown.

**Article VIII** TERMINATION OF AGREEMENT. This Agreement may be terminated by either party, at any time, by the delivery to the other party of a written notice of termination of the Agreement, stating in good faith and for good and valid reasons why such party is unable to comply with and carry out the terms and substantive obligations of the Agreement in a meaningful manner. In the event of such termination, the City and the Conservancy shall perform such services and pay such monies as are necessary to carry out their respective obligations under the Agreement up to the date of termination of the Agreement. Any notice shall be delivered in person or by first class mail, return receipt requested, as the address of such party as hereinafter set out.

**Article IX** EXTENT OF AGREEMENT. This Agreement represents the entire Agreement between the City and the Conservancy. This Agreement may be amended only by written instrument signed by both parties and such amendment shall be attached to this Agreement.

**Article X** NOTICES. All notices required to be given under this Agreement shall be in writing and shall be deemed to have been duly given on the date mailed, if sent by certified mail, return receipt requested or delivered in person to:

THE CITY:

City Manager  
City of Watertown  
245 Washington Street  
Suite 302  
Watertown, New York 13601

THOMPSON PARK CONSERVANCY, INC.:

Thompson Park Conservancy, Inc.  
1 Thompson Park  
Watertown, New York 13601

A party may change the address to which notices are to be sent by written notice actually received by the other party.

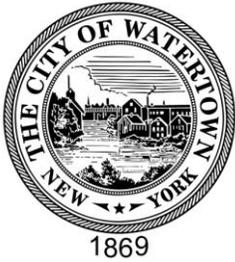
**IN WITNESS WHEREOF**, the City of Watertown and Thompson Park Conservancy, Inc. have caused this Agreement to be executed by authorized agents to be effective as of the date heretofore written.

The City of Watertown

Thompson Park Conservancy, Inc.

\_\_\_\_\_  
By: Richard M. Finn, City Manager

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



# CITY OF WATERTOWN, NEW YORK

ROOM 302, CITY HALL  
245 WASHINGTON STREET  
WATERTOWN, NEW YORK 13601-3380  
E-MAIL [DMorrow@watertown-ny.gov](mailto:DMorrow@watertown-ny.gov)  
Phone (315) 785-7749 Fax (315) 785-7752

Dale Morrow  
Purchasing Manager

Res No. 9

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## MEMORANDUM

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**TO:** Richard M. Finn, City Manager  
**FROM:** Dale Morrow, Purchasing Manager  
**SUBJECT:** Interlocal Contract for Cooperative Purchasing (HGACBuy)  
**DATE:** November 14, 2019

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Attached for City Council consideration is a resolution approving an Interlocal Contract for Cooperative Purchasing (HGACBuy) between the City of Watertown and the Houston-Galveston Area Council. This Contract will allow the City of Watertown to purchase goods and services with eligible entities. The benefits of this program are: (1) no membership fee to join, and (2) the bidding process is already taken care of (similar to NY SOGS).

There are two departments in the City that would benefit from this contract: the Fire Department and DPW. At a minimum, they would be able to use HGAC as a cost comparison. HGAC lists fire vehicles, buses, and other vehicles related to DPW.

The Interlocal Contract for Cooperative Purchasing is also attached for your reference. The City Attorney has reviewed the City's potential participation in this program and has determined the City may do so with the approval of the attached Resolution.

**ACTION:** City Manager recommends approval.

# RESOLUTION

Page 1 of 1

Approving Interlocal Contract For  
Cooperative Purchasing (HGACBuy)

- Council Member COMPO, Sarah V.
- Council Member HENRY-WILKINSON, Ryan J.
- Council Member HORBACZ, Cody J.
- Council Member RUGGIERO, Lisa L.
- Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

### *Introduced by*

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WHEREAS Houston-Galveston Area Council, hereinafter referred to as “H-GAC” is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code, and

WHEREAS pursuant to the Act, H-GAC is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services, and

WHEREAS in reliance on such authority, H-GAC has instituted a cooperative purchasing program under which it contracts with eligible entities under the Act, and

WHEREAS the City represents that it is an eligible entity under the Act, that its governing body has authorized this Contract and that it desires to contract with H-GAC on the terms set forth in said Contract,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the Interlocal Contract For Cooperative Purchasing between the City of Watertown and the Houston-Galveston Area Council, a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to sign all contracts associated with approving an Interlocal Contract for Cooperative Purchasing (HGACBuy).

### *Seconded by*



**INTERLOCAL CONTRACT  
FOR COOPERATIVE PURCHASING**

ILC  
No.: \_\_\_\_\_  
Permanent Number assigned by H-GAC

THIS INTERLOCAL CONTRACT ("Contract"), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act"), by and between the Houston-Galveston Area Council, hereinafter referred to as "H-GAC," having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, and \* \_\_\_\_\_, a local government, state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as "End User," having its principal place of business at \* \_\_\_\_\_

**WITNESSETH**

**WHEREAS**, H-GAC is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

**WHEREAS**, pursuant to the Act, H-GAC is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

**WHEREAS**, in reliance on such authority, H-GAC has instituted a cooperative purchasing program under which it contracts with eligible entities under the Act; and

**WHEREAS**, End User has represented that it is an eligible entity under the Act, that its governing body has authorized this Contract on \* \_\_\_\_\_, and that it desires to contract with H-GAC on the terms set forth below;

**NOW, THEREFORE**, H-GAC and the End User do hereby agree as follows:

**ARTICLE 1: LEGAL AUTHORITY**

The End User represents and warrants to H-GAC that (1) it is eligible to contract with H-GAC under the Act because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state), or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and (2) it possesses adequate legal authority to enter into this Contract.

**ARTICLE 2: APPLICABLE LAWS**

H-GAC and the End User agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, and ordinances and laws in effect or promulgated during the term of this Contract.

**ARTICLE 3: WHOLE AGREEMENT**

This Contract and any attachments, as provided herein, constitute the complete contract between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

**ARTICLE 4: PERFORMANCE PERIOD**

The period of this Contract shall be for the balance of the fiscal year of the End User, which began \* \_\_\_\_\_ and ends \* \_\_\_\_\_. This Contract shall thereafter automatically be renewed annually for each succeeding fiscal year, provided that such renewal shall not have the effect of extending the period in which the End User may make any payment due an H-GAC contractor beyond the fiscal year in which such obligation was incurred under this Contract.

**ARTICLE 5: SCOPE OF SERVICES**

The End User appoints H-GAC its true and lawful purchasing agent for the purchase of certain products and services through the H-GAC Cooperative Purchasing Program. End User will access the Program through [HGACBuy.com](http://HGACBuy.com) and by submission of any duly executed purchase order, in the form prescribed by H-GAC to a contractor having a valid contract with H-GAC. All purchases hereunder shall be in accordance with specifications and contract terms and pricing established by H-GAC. Ownership (title) to products purchased through H-GAC shall transfer directly from the contractor to the End User.

(over)

**ARTICLE 6: PAYMENTS**

H-GAC will confirm each order and issue notice to contractor to proceed. Upon delivery of goods or services purchased, and presentation of a properly documented invoice, the End User shall promptly, and in any case within thirty (30) days, pay H-GAC's contractor the full amount of the invoice. All payments for goods or services will be made from current revenues available to the paying party. In no event shall H-GAC have any financial liability to the End User for any goods or services End User procures from an H-GAC contractor.

**ARTICLE 7: CHANGES AND AMENDMENTS**

This Contract may be amended only by a written amendment executed by both parties, except that any alterations, additions, or deletions to the terms of this Contract which are required by changes in Federal and State law or regulations are automatically incorporated into this Contract without written amendment hereto and shall become effective on the date designated by such law or regulation.

H-GAC reserves the right to make changes in the scope of products and services offered through the H-GAC Cooperative Purchasing Program to be performed hereunder.

**ARTICLE 8: TERMINATION PROCEDURES**

H-GAC or the End User may cancel this Contract at any time upon thirty (30) days written notice by certified mail to the other party to this Contract. The obligations of the End User, including its obligation to pay H-GAC's contractor for all costs incurred under this Contract prior to such notice shall survive such cancellation, as well as any other obligation incurred under this Contract, until performed or discharged by the End User.

**ARTICLE 9: SEVERABILITY**

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

**ARTICLE 10: FORCE MAJEURE**

To the extent that either party to this Contract shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation solely to pay funds. Determination of force majeure shall rest solely with H-GAC.

**ARTICLE 11: VENUE**

Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.

**THIS INSTRUMENT HAS BEEN EXECUTED BY THE PARTIES HERETO AS FOLLOWS:**

\* \_\_\_\_\_  
Name of End User (local government, agency, or non-profit corporation)

**Houston-Galveston Area Council**  
3555 Timmons Lane, Suite 120, Houston, TX 77027

\* \_\_\_\_\_  
Mailing Address

By: \_\_\_\_\_  
Executive Director

\* \_\_\_\_\_  
City State ZIP Code

Date: \_\_\_\_\_

\*By: \_\_\_\_\_  
Signature of chief elected or appointed official

\* \_\_\_\_\_  
Typed Name & Title of Signatory

\* \_\_\_\_\_  
Date

*\*Denotes required fields*

*SLYE LAW OFFICES, P.C.*

MEMORANDUM

TO: Watertown City Council  
FROM: Robert J. Slye, Esq.  
DATE: November 8, 2019  
RE: Proposed Local Law – Signage Moratorium

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The attached proposed Local Law, if adopted, would impose a moratorium on the issuance of permits and/or consideration of variances before the Zoning Board of Appeals on any applications to construct, erect, or install digital/LED/electronic signage. The moratorium would be imposed for an initial period of one (1) year, with the opportunity to extend the moratorium for an additional six months upon resolution of the City Council.

The purpose of the moratorium is to allow the City Council to address the new technology, on a City-wide basis, and determine if, and/or under what circumstances, certain signage should be permitted and/or regulated under the Zoning Law.

This issue came to the forefront when an application was made to install digital/LED signage on the billboards atop the old Watertown Bank Building adjacent to Cam's Pizzeria. The application for a permit was denied by the Codes Enforcement Supervisor under the existing Zoning Law, as it represents signs "which by their use or simulation of colors, design or placement, tend to confuse, detract from or in any other way obstruct the utilization of traffic regulatory devices," and also represents illuminated signage which would "permit the beams or illumination therefrom to be directed so as to cause glare or reflection upon a public street, sidewalk or adjacent privately owned premises." Rather than continue to deal with applications for such signage under applicable, but outdated criteria, the City Planning Department has recommended that, upon adoption of a comprehensive analysis of the City's Zoning Ordinance in a manner designed to comply with the comprehensive plan, the issue of these signs needs to be directly addressed.

Any local law attempting to impose a moratorium is required to be reviewed by the County Planning Board under §239-m of the General Municipal Law. This particular proposal is being referred to the County Planning Board for consideration at its November 26<sup>th</sup> meeting. The recommendation of staff is that a public hearing on the local law be scheduled to occur after the City receives the County Planning Board recommendation, so that County comments may be fully considered by the Council prior to addressing the proposed moratorium.

ACTION: City Manager recommends that the City Council schedule a public hearing for Monday, December 2, 2019, at 7:30 p.m.



**LOCAL LAW**

Page 1 of 5

A Local Law Imposing a Temporary Moratorium on the Issuance of Sign Permits for any Exterior/Digital/LED/Changeable Copy Sign or Billboard, of Whatever Size, in any of the City's Zoning Districts as Identified at Section 310-2(A) of the Code of the City of Watertown

Council Member COMPO, Sarah V.  
 Council Member HENRY-WILKINSON, Ryan J.  
 Council Member HORBACZ, Cody J.  
 Council Member RUGGIERO, Lisa A.  
 Mayor BUTLER, Jr., Joseph M.  
 Total .....

YEA	NAY

***Introduced by***

---

A Local Law imposing a temporary moratorium on the issuance of sign permits for any exterior/digital/LED/changeable copy sign or billboard, of whatever size, in any of the City's Zoning Districts as identified at Section 310-2(A) of the Code of the City of Watertown.

WHEREAS the City Council recognizes that recent technology has revolutionized the sign and billboard industry, making digital/LED/computer-generated images readily changeable for a wide variety of advertising on the same signage space. This revolutionary technology presents many advertising benefits, yet also presents issues where changeable copy or moving pictures can be distracting to drivers, bothersome to persons living nearby, and generally, can create a public nuisance. Such computer-generated signs and billboards are not always visually compatible with their surroundings. In some instances, they can detract from the historical nature of their surroundings. Accordingly, the City Council of the City of Watertown deems it to be in the public interest to stop and temporarily suspend the processing of applications for, and the issuance of any permits and/or approval for, certain types of energized signage, in any of the City's Zoning District classifications, until such time as the City's comprehensive plan can be formally adopted by the Watertown City Council and zoning regulations pertaining to such signage can be evaluated and/or adopted by changes to the City's Zoning Ordinance. Accordingly, the City Council has determined to impose a moratorium on the processing of applications for, and the issuance of any permits and/or approvals for what is generally to be described as computer-generated changeable copy signs, of any nature and of any size, to include billboard signs, in any of the City's Zoning District classifications, for a period of one year from the effective date of this Local Law to provide adequate time for the City Council to analyze and determine potential appropriate revisions and amendments to the City of Watertown's Zoning Ordinance concerning their use. Provision is made in this Local Law to allow for the extension of the one-year moratorium if necessary, and

**LOCAL LAW**

Page 2 of 5

A Local Law Imposing a Temporary Moratorium on the Issuance of Sign Permits for any Exterior/Digital/LED/Changeable Copy Sign or Billboard, of Whatever Size, in any of the City's Zoning Districts as Identified at Section 310-2(A) of the Code of the City of Watertown

Council Member COMPO, Sarah V.  
 Council Member HENRY-WILKINSON, Ryan J.  
 Council Member HORBACZ, Cody J.  
 Council Member RUGGIERO, Lisa A.  
 Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

WHEREAS the City Council of the City of Watertown hereby finds that, without a temporary halt on the processing, permitting and approvals for changeable copy signage in the City's several Zoning Districts, there is potential that such uses could be located in areas which can cause disruptions in motor vehicle traffic, be distracting to vehicle operators and/or pedestrians, and/or can be disruptive to persons residing nearby. The potential for unsuitable types of signs or unsuitable locations which might materially affect the City's historical downtown streetscape may have particular adverse impacts on the City and its residents, and

WHEREAS the City Council also finds that it is in need of time to perform the necessary analysis of the potential types of signs which should be located in each zoning classification established by the Code of the City of Watertown, and that by maintaining the status quo by temporarily prohibiting the issuance of permits or the processing of applications for approvals for certain signs, the City Council can provide for the planned orderly growth and development of the City, and

WHEREAS a public hearing was conducted in connection with this Local Law on December 2, 2019, after due notice and publication thereof,

NOW THEREFORE BE IT ENACTED by the City Council of the City of Watertown, New York that for a period of time of one (1) year following the effective date of the adoption of this Local Law, the City Council, the City's Planning Board, the City Zoning Board of Appeals and the City's Zoning Officer shall not permit, accept, process, interpret, deliberate upon, decide, deny, or make any determination for any applications for electronic/digitally created/changeable copy signs, including but not limited to scrolling signs, picture signs, of any size or shape, including billboards which contain digitally-created images; changeable copy; or LED display functions in any of the zoning classifications established by Section 310-2(A) of the Code of the City of Watertown, and

BE IT FURTHER ENACTED this moratorium shall apply to all currently pending and future applications, and

BE IT FURTHER ENACTED the terms "changeable copy sign," "digitally created and/or digital display sign," and "electronic changeable sign" shall be broadly construed to include any signage designed to generate photographic images, movies, scrolling type, changing image or any other type of lighted signage which is used to advertise any business or point of view, and

**LOCAL LAW**

Page 3 of 5

A Local Law Imposing a Temporary Moratorium on the Issuance of Sign Permits for any Exterior/Digital/LED/Changeable Copy Sign or Billboard, of Whatever Size, in any of the City's Zoning Districts as Identified at Section 310-2(A) of the Code of the City of Watertown

Council Member COMPO, Sarah V.  
 Council Member HENRY-WILKINSON, Ryan J.  
 Council Member HORBACZ, Cody J.  
 Council Member RUGGIERO, Lisa A.  
 Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

BE IT FURTHER ENACTED this Local Law shall be binding on the City Council, Planning Board, Zoning Board of Appeals, Zoning Officer, Codes Enforcement Officer, and all City officials and employees, and any applicant or real property owner in the City desiring to apply for or receive a permit or approval for such signage in the City of Watertown's several zoning classifications, and

BE IT FURTHER ENACTED that during the period of the moratorium, the City Council shall endeavor to complete all reasonable and necessary review, study, analysis and, if warranted, revisions to the City of Watertown Zoning Ordinance concerning such signage. During the period of the moratorium, no applications will be accepted, nor permits or approvals issued, which would authorize such signage within the City of Watertown, and

BE IT FURTHER ENACTED that this moratorium shall be in effect for a period of one (1) year from its effective date. This Local Law shall be subject to renewal for a cumulative period of up to an additional six (6) months, if necessary, by Resolution(s) of the City Council, and

BE IT FURTHER ENACTED that, to the extent that any law, ordinance, rule or regulation, or parts of any laws, ordinance, rules or regulations of the City of Watertown are in conflict with any provision of this Local Law, concerning special use permits, site plans, building permits and procedure and requirements, this Local Law shall control and supersede such laws, ordinances, rules or regulations, and

BE IT FURTHER ENACTED that, should any owner of property affected by this Local Law suffer any extraordinary hardship in carrying out the strict letter of this Local Law, then the owner of the said property may apply to the City Council of the City of Watertown in writing for a variance from strict compliance with this Local Law upon submission of evidence of such extraordinary hardship. For the purposes of this Local Law, extraordinary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a sign permit, or other permit, during the period imposed by the moratorium imposed by this Local Law, and

**LOCAL LAW**

Page 4 of 5

A Local Law Imposing a Temporary Moratorium on the Issuance of Sign Permits for any Exterior/Digital/LED/Changeable Copy Sign or Billboard, of Whatever Size, in any of the City's Zoning Districts as Identified at Section 310-2(A) of the Code of the City of Watertown

Council Member COMPO, Sarah V.  
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 Council Member RUGGIERO, Lisa A.  
 Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

BE IT FURTHER ENACTED that a request for a variance based upon extraordinary hardship shall be filed with the City Clerk, including a fee of \$350.00 to cover processing and advertising costs by the landowner, or the applicant with consent of the landowner. The request shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship, and shall contain such other information as the City Manager or his designee shall prescribe as necessary for the City Council to be fully informed with respect to the application, and

BE IT FURTHER ENACTED that, upon submission of the aforementioned written application to the City Clerk, the City Council shall, within thirty (30) days of receipt of said application, schedule a public hearing to consider whether an extraordinary hardship is present. A public hearing on any request for an exception for extraordinary hardship shall be held by the City Council at the first regular meeting of the City Council occurring after the expiration of the publication of notice of the request for a waiver. The notice shall be advertised in the City's designated newspaper at least ten (10) days prior to the date of the public hearing. Notice shall also be given, by regular mail, to abutting property owners at the addresses on the tax rolls, and

BE IT FURTHER ENACTED that, at said public hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the City Council shall, within fifteen (15) days of the close of said Public Hearing, render its decision, either granting or denying the application for variation from the strict requirements of this Local Law, and

BE IT FURTHER ENACTED that, if the City Council determines that a property owner will suffer extraordinary hardship if this Local Law is strictly applied to a particular property, then the City Council shall vary strict compliance with this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with the Local Law, and

BE IT FURTHER ENACTED that any person, firm or corporation that shall establish, place alter, enlarge or erect or modify any sign or billboard on any structure or freestanding, in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

Injunctive relief in favor of the City of Watertown to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction which may have taken place in violation of this Local Law, and

# LOCAL LAW

Page 5 of 5

A Local Law Imposing a Temporary Moratorium on the Issuance of Sign Permits for any Exterior/Digital/LED/Changeable Copy Sign or Billboard, of Whatever Size, in any of the City's Zoning Districts as Identified at Section 310-2(A) of the Code of the City of Watertown

Council Member COMPO, Sarah V.  
Council Member HENRY-WILKINSON, Ryan J.  
Council Member HORBACZ, Cody J.  
Council Member RUGGIERO, Lisa A.  
Mayor BUTLER, Jr., Joseph M.

Total .....

YEA	NAY

BE IT FURTHER ENACTED that if any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect, and

BE IT FURTHER ENACTED that it has been determined this is a Type II Action under the State Environmental Quality Review and therefore not subject to further environmental review, and

BE IT FURTHER ENACTED that this Local Law has been referred to the County Planning Board in accordance with the General Municipal Law §239-m [7] and the City Council has received and reviewed the findings and recommendation of the Jefferson County Planning Department, and

BE IT FURTHER ENACTED that this Local Law shall take effect immediately upon its filing with the Secretary of State in accordance with New York Municipal Home Rule Law.

***Seconded by***

November 12, 2019

To: Richard M. Finn, City Manager  
From: Michael A. Lumbis, Planning & Community Development Director  
Subject: Setting a Public Hearing Prior to Adopting the Comprehensive Plan for the City of Watertown

The Planning and Community Development Department has spent the previous 15 months working with Elan Planning, Design and Landscape Architecture and a local Steering Committee to develop a Comprehensive Plan for the City of Watertown. Planning Staff and the Steering Committee are now ready to forward the plan for adoption.

The City of Watertown Planning Board considered the plan at its November 12, 2019 meeting and unanimously voted to recommend that City Council adopt the plan. Staff has also referred the Comprehensive Plan to the Jefferson County Planning Department for 239-m review, and it will appear on the agenda for the County Planning Board's November 26, 2019 meeting.

Council Members previously received copies of the draft plan in their work session packets for November 12, as part of the Planning Board agenda that went out for that same date. The plan is also available for viewing online at: <https://www.watertown-ny.gov/archives/44/11-12-2019%20-%20DRAFT%20Comprehensive%20Plan.pdf>.

As such, City Council will be free to adopt the Comprehensive Plan at its December 2, 2019 meeting. On that evening, the Council must hold a Public Hearing prior to any vote on adoption. Planning Staff recommends that City Council schedule a Public Hearing for 7:30 p.m. on Monday December 2, 2019.

Staff will prepare a Resolution under separate cover for Council's consideration at the December 2, 2019 meeting, which adopts the Comprehensive Plan and includes all necessary SEQRA considerations.

ACTION: City Manager recommends scheduling a Public Hearing for 7:30 p.m. on Monday, December 2, 2019.



November 12, 2019

To: Richard M. Finn, City Manager  
From: Michael A. Lumbis, Planning and Community Development Director  
Subject: Scheduling a Public Hearing for the Proposed Thompson Park Public Parking Lot

The City is in receipt of a proposed plan that details the construction of the proposed public parking lot in Thompson Park to be located along the West Entrance Drive across from the North Down (Kite Hill). The Engineering Department is currently reviewing those plans and will be making a report to the City Council soon.

At a recent Council meeting it was stated that because the proposed parking lot was a public parking lot, formal site plan approval would not be required. Several examples of previous City owned parking lots that have been constructed without site plan approval were cited during the meeting, including the State Street Parking Lot, the Fairgrounds Arena (rear) Parking Lot, Whitewater Park Parking Lot and others.

The parking lots noted above are located in different zoning districts including Commercial, Open Space and Recreation and Waterfront. The proposed parking lot in Thompson Park is located in a Residence A zoning district.

Section 310-4, Paragraph F of the Zoning Ordinance states that municipal or public facilities are allowed uses in Residence A districts, but only upon approval of the Council after a public hearing. It also states that the Council shall require the submission of plans and specifications of the proposed facility prior to taking action.

As noted above, plans and details have been submitted and are being reviewed by Staff and will be forwarded to the Council at an upcoming meeting for approval. Since the project is located in a Residence A district, a public hearing will be required prior to the Council approving the construction of the lot.

It is therefore recommended that the City Council schedule a public hearing for Monday, December 2, 2019 at 7:30 p.m. to hear public comments relative to the construction of a public parking lot in Thompson Park.

As was also noted, prior to approving and authorizing the construction of the parking lot, review of the project is required under the State Environmental Quality Review Act (SEQRA). Prior to consideration by the City Council, an Environmental Assessment Form for the project will be prepared for Council's review.

ACTION: City Manager recommends scheduling a Public Hearing for 7:30 p.m. on Monday, December 2, 2019.

