



LEGISLATIVE BRANCH CITY OF BINGHAMTON

William Berg, City Council President
Jeremy Pelletier, City Clerk

CITY COUNCIL WORK SESSION AGENDA City Council Work Room, 38 Hawley Street, Binghamton Monday June 15, 2015

The Work Session begins at 6:00pm. Times for RL(s)/Topics are approximate only and items may be considered earlier or later.

Time	Committee	Chair	RL(s)/Topic	Pages	Presenter
6:00pm	-----	-----	Discussion: City of Binghamton Downtown Parking Study	-----	Nelson/Nygard
6:30pm	-----	-----	Discussion: Update on Parking Ramps	-----	Chris Gray, Kevin Carrigan, Rich Perkins
6:45pm	-----	-----	Discussion: Update on OurSpace Project	-----	Jennifer O'Brien
7:05pm	-----	-----	Discussion: 2015 Street Milling and Paving	-----	Terry Kellogg
7:35pm	PW/Parks	Motsavage	RL 15-105: Free pool passes for Binghamton Elementary Schools	17	Bill Barber
7:50pm	Planning	Webb	RL 15-106: Adopting an affirmative action plan as required for CDBG-DR program	18-21	Rich Perkins
	Planning	Webb	RL 15-107: Adopting Police and Grievance procedures for CDBG-DR program	22-25	
	Finance	Motsavage	RL 15-108: Agreement with McFarland Johnson for construction inspection on the Front Street pavement restoration project	26-42	
	PW/Parks	Motsavage	RL 15-109: Agreement with NYSDOT for design of State Street Phase 1 Pedestrian and Streetscape improvement project	43-79	
	Finance	Motsavage	RL 15-110: Supplemental Agreement No. 1 with NYSDOT for S. Washington Street Pedestrian Bridge project	80-82	
Finance	Finance	RL 15-111: Supplemental Agreement No. 2 with NYSDOT for Exchange St. Bridge project	83-85		
8:15pm	Finance	Webb	RL 15-103: 15 year PILOT extension with Hamilton House Company	4-13	Kenneth J. Frank
8:30pm	Planning	Webb	RL 15-102: Sale of a triangular portion of Flynn Avenue to Binghamton Giant Markets, Inc.	1-3	Jeremy Pelletier
	Planning	Webb	RL 15-104: 5 year lease extension with VINES for 16 & 20 Tudor St and 9 & 11 Varick Street	14-16	
			RL 15-112: Acceptance of 16 Second	86-90	



LEGISLATIVE BRANCH CITY OF BINGHAMTON

William Berg, City Council President
 Jeremy Pelletier, City Clerk

			Street and \$20,000 in lieu of property disposition		
8:45pm	-----	-----	Discussion: Event Permit regulations/Pop-up events in the City of Binghamton	-----	Chris Papastrat
9:00pm	-----	-----	Discussion: Adjustments to Water/Sewer billing	-----	John Matzo
9:15pm	-----	-----	Discussion: Review of Traffic Board Minutes	92-93	Council President Berg
	-----	-----	Discussion: Review of Mayoral appointment to Planning Commission	91	
	-----	-----	Discussion: Review of Committee Reports & Pending Legislation	-----	

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COMMITTEE REPORTS

Employees Committee: Webb (Chair), Motsavage, Papastrat

Review of City of Binghamton sexual harassment policy.

Municipal & Public Affairs Committee: Rennia (Chair), Webb, Matzo

Potential amendments to the City of Binghamton's noise ordinance regulations.

Reviewing proposed police modernization law.

Public Works/Parks & Recreation Committee: Motsavage (Chair), Rennia, Mihalko

Review the Traffic Signal Removal Study.



Legislative Branch

RL Number:
15-102
Date Submitted:
6/4/2015

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

REQUEST FOR LEGISLATION

Requests for Legislation (RLs) may be submitted to the City Clerk's Office for consideration at City Council Work Sessions. RLs generated from within City Hall departments must be submitted to the Mayor, Comptroller and Corporation Counsel for review before submission. RLs generated by citizens may be submitted directly to the City Clerk's Office.

Applicant Information

Request submitted by: Jeremy Pelletier, City Clerk

Title/Department: City Clerk's Office

Contact Information: 607-772-7005 clerk@cityofbinghamton.com

RL Information

Proposed Title: An Ordinance authorizing the sale of a triangular portion of Flynn Avenue to Binghamton Giant Markets, Inc for \$500

Suggested Content: Board of Estimate & Apportionment approved the sale on 6/3/15

Additional Information

Does this RL concern grant funding? Yes No

If 'Yes', is the required RL Grant Worksheet attached? Yes No

Is additional information related to the RL attached? Yes No

Is RL related to previously adopted legislation? Yes No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): _____

OFFICE USE ONLY

Mayor: _____

Comptroller: _____

Corporation Counsel: _____

Finance Planning MPA PW/Parks Employees Rules/Special Studies



OFFICE OF THE CITY CLERK - CITY OF BINGHAMTON

Teri Rennia, City Council President
Angela Holmes, City Clerk

OFFER TO PURCHASE

Please complete the below application, and submit this document to the City Clerk for consideration. Please note that if such sale is approved, the Applicant will be liable for all filing fees associated with the transfer of this property.

PROPERTY INFORMATION

Street Address of Property: Flynn Avenue, a paper street
Tax Parcel Identification Number: 20' x 138' +/- - as set forth on the attached survey
Current Use of Property: [] Residential [x] Commercial [] Mixed Use [] Vacant Lot
Offered Purchase Price: \$500.00

Please describe the intended use of the property. The inclusion of a map or illustration depicting the intended use of the property will expedite the review process.

Parking

APPLICANT INFORMATION

Applicant Name: Binghamton Giant Markets, Inc.
Note: If the applicant is a company or corporation, please list all shareholders or members.
Mailing Address: 2548 East Vestal Highway, Vestal, NY
Telephone Number(s): 607.763.8770
Email Address: [redacted]

Please list any other properties owned by the Applicant located within Broome County.

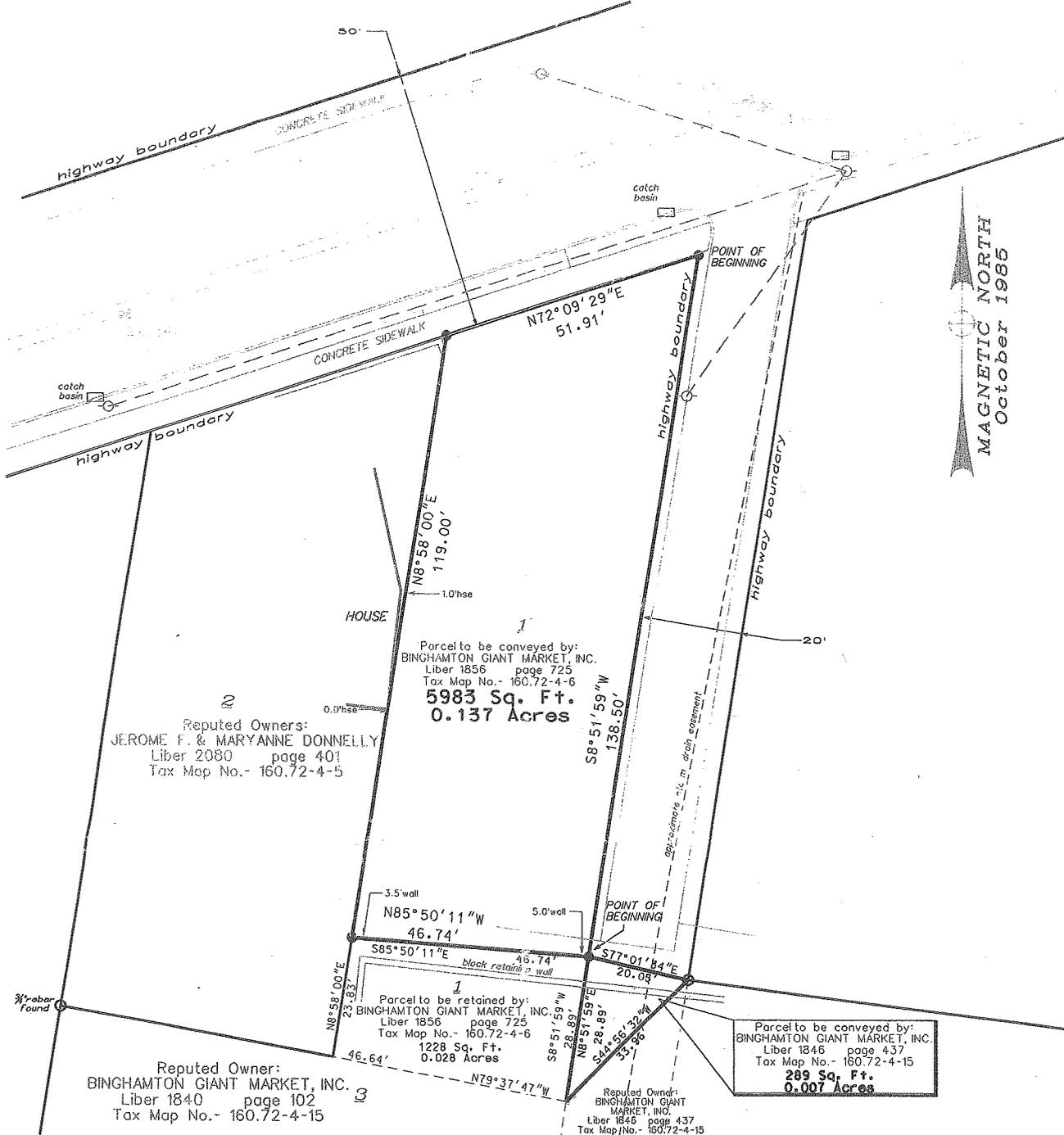
see attached list of properties

I hereby certify that the above information is a true account of my intended purchase and use of City-owned property. I understand that upon approval of any such sale, any deviance from the agreed-upon terms and conditions may result in the termination of such agreement through legal proceedings.

Ronald [Signature]

Signature

Date



Parcel to be conveyed by:
 BINGHAMTON GIANT MARKET, INC.
 Liber 1856 page 725
 Tax Map No.- 160.72-4-6
5983 Sq. Ft.
0.137 Acres

Reputed Owners:
 JEROME F. & MARYANNE DONNELLY
 Liber 2080 page 401
 Tax Map No.- 160.72-4-5

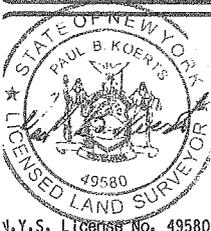
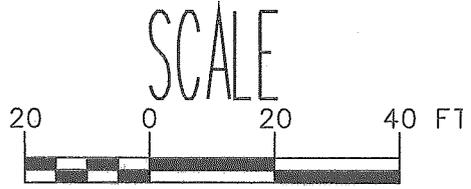
Parcel to be retained by:
 BINGHAMTON GIANT MARKET, INC.
 Liber 1856 page 725
 Tax Map No.- 160.72-4-6
1228 Sq. Ft.
0.028 Acres

Reputed Owner:
 BINGHAMTON GIANT MARKET, INC.
 Liber 1840 page 102
 Tax Map No.- 160.72-4-15

Parcel to be conveyed by:
 BINGHAMTON GIANT MARKET, INC.
 Liber 1846 page 437
 Tax Map No.- 160.72-4-15
289 Sq. Ft.
0.007 Acres

Reputed Owner:
 BINGHAMTON GIANT MARKET, INC.
 Liber 1845 page 437
 Tax Map No.- 160.72-4-15

NOTE:
 1 Denotes lot number on a map entitled "Margaret Flynn's Lot" as surveyed by S.E. Monroe, C.E. and recorded in the Broome County Clerk's Office in Book 1 of Maps, at page 159.



GENERAL NOTES

- 1) Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of section 7209, sub-division 2, of the New York State Education Law.
- 2) Only copies from the original of this survey marked with an original of the land surveyor's seal and signature shall be considered to be valid true copies.
- 3) Certifications indicated hereon signify that this survey was prepared in accordance with the current Code of Practice for Land Surveys adopted by the New York State Association of Professional Land Surveyors. Said certifications shall run only to the person for whom the survey was prepared, and on his behalf to the title company, governmental agency and lending institutions listed hereon, and to the assignees of the lending institution. Certifications are not transferable to additional institutions or subsequent owners.
- 4) Subject to utility lines or other easements covenants or restrictions affecting the surveyed premises, if any. All visible above ground evidence of easements are as shown.
- 5) Subject to any facts a complete, accurate and current abstract of title may disclose.

CERTIFICATION OF THIS SURVEY SHALL RUN TO:
 -Binghamton Giant Market, Inc.

REVISIONS		DEED REFERENCE	
1) REVISED -	DECEMBER 30, 2013	LIBER 1856	PAGE 725
2)			
3)			
4)			
5)			
6)			

MAP DATE: DECEMBER 18, 2013
 MAP NO: 11310-1

MAP AND SURVEY PREPARED BY
PAUL B. KOERTS
 PROFESSIONAL LAND SURVEYOR

TEL. NO. - 607-656-9578
 FAX NO. - 607-656-9133

- LEGEND**
- 5/8" rebar with plastic yellow cap tagged "Paul B. Koerts, L.S.No. 49580" set
 - Iron pin or pipe found
 - ⊠ underground telephone cable box/marker
 - utility pole with overhead distribution & services lines
 - property line
 - easement line
 - water course or boundary

BOUNDARY SURVEY
 OF LANDS TO BE CONVEYED BY
BINGHAMTON GIANT MARKET, INC.
 1150 PEGASUS DRIVE TAX MAP NO.-160.72-4-6
 CITY OF BINGHAMTON
 COUNTY OF BROOME STATE OF NEW YORK



Legislative Branch

RL Number:

15-103

Date Submitted:

6/4/15

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

REQUEST FOR LEGISLATION

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Applicant Information

Request submitted by: Kenneth J. Frank, Esq.

Title/Department: Corporation Counsel

Contact Information: 772-7013

RL Information

Proposed Title: A Resolution Authorizing the Mayor to Enter into a 15 year Extension of the PILOT Agreement between Hamilton House Apartment Company I, L.P. and the City of Binghamton.

Suggested Content: To be drafted by Corporation Counsel; see outline of terms on next page.

Additional Information

Does this RL concern grant funding? Yes No

If 'Yes', is the required RL Grant Worksheet attached? Yes No

Is additional information related to the RL attached? Yes No

Is RL related to previously adopted legislation? Yes No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): Perm. # 98-162

OFFICE USE ONLY	
Mayor:	<u>[Signature]</u>
Comptroller:	<u>[Signature]</u>
Corporation Counsel:	<u>[Signature]</u>
Finance <input checked="" type="checkbox"/>	Planning <input type="checkbox"/> MPA <input type="checkbox"/> PW/Parks <input type="checkbox"/> Employees <input type="checkbox"/> Rules/Special Studies <input type="checkbox"/>

Memorandum

To: Members of the Binghamton City Council
From: Brian Seachrist, First Asst. Corporation Counsel
Date: June 2, 2015
CC: Kenneth J. Frank, Corporation Counsel
Jared M. Kraham, Executive Assistant to the Mayor
Subject: Extension of Hamilton House PILOT

In 1998 the City Council authorized the Mayor to enter into a PILOT agreement with Hamilton House Apartment Co. to operate a 37 unit low income senior housing project at 16 St. John Avenue. The PILOT was for 30 years and the payments were to be as follows:

1999 – 2004: \$400/unit = \$14,800
2005 – 2010: \$440/unit = \$16,280
2011 – 2014: \$484/unit = \$17,908
2015 – 2030 To be negotiated in 2014-15.

In 2005, after the adoption of the Hamilton House PILOT, the State of New York created Section 581-a of the Real Property Tax Law. Section 581-a allows owners of income restricted residential rental properties to be assessed by the "capitalization of income" method. Hamilton House qualifies for valuation under 581-a. There is some room for argument as to what the exact "tax payments" under 581-a would be; however, if Hamilton House were to allow the PILOT to lapse and seek Section 581-a valuation its tax payments would most likely be lower than under the existing PILOT. The down side of Section 581-a tax payments for Hamilton House is that the payment must be recalculated each year based upon the prior year's financials and those payments can fluctuate. In an effort to create some certainty and predictability for both Hamilton House and the City of Binghamton, the parties have reached to following agreement:

2015 - 2019: \$400/unit = \$14,800
2020 - 2024: \$420/unit = \$15,540
2025 - 2030: \$440/unit = \$16,280

This proposal reflects the new reality of Section 581-a. As such, we, the Office of the Corporation Counsel and the City Assessor, respectfully request that you authorize the Mayor to enter into an agreement extending the Hamilton House PILOT as proposed above.

Respectfully Submitted,

Brian M. Seachrist



IN
THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK

Dated: December 7, 1998

Sponsored by Council Member(s): Wackett, Collins, Fiala, Palleschi, Brown, Deak, Sanfilippo
Introduced by Committee(s) on: Finance

- Code ✓
- Corp. Counsel ✓
- Compt. ✓
- Engineer
- Treasurer ✓
- Data
- CDD
- Personnel
- Public Works
- Parks
- Assessor
- Mayor ✓
- Library ✓

ORDINANCE
entitled

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH HAMILTON HOUSE APARTMENTS COMPANY I, L. P., FORMING A PILOT PROGRAM EXEMPTING HAMILTON HOUSE FROM MUNICIPAL TAXES.

12/8/98
Frank

WHEREAS, Hamilton House Apartments Company I, L.P., (the "Company") has been duly created and is existing as a redevelopment company pursuant to Article 5 of the Private Housing Finance Law of the State of New York (the "Enabling Act"); and

WHEREAS, the Company has submitted to this City Council a proposed form of contract between the City of Binghamton and the Company relating to tax exemption of real property located in the City of Binghamton to be transferred to the Company, said proposed form of contract is in the form of Schedule "A" annexed hereto; and

WHEREAS, the City Council believes that the terms and conditions of the proposed form of contract are in the best interest of the City of Binghamton, New York;

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby ordain as follows:

Section 1. That the Mayor of the City of Binghamton is authorized to execute and deliver the said contract in substantially the form of Schedule "A" annexed hereto as approved by the City Council at this meeting and attest the same.

Section 2. That this ordinance shall take effect immediately.

AGREEMENT

AGREEMENT (the "Agreement") dated as of this ____ day of _____, 1998, by and between Hamilton House Apartments Company I, L.P., a Redevelopment Company formed as a Limited Partnership under the Laws of the State of New York, with a principal place of business at 6320 Fly Road, East Syracuse, New York, (the "Company") and the City of Binghamton.

WITNESSETH:

WHEREAS, the Company and City desire that a Low Income Senior Citizen Housing Project be undertaken for the purposes of and pursuant to Article 5 of the Private Housing Finance Law of the State of New York, (the "Law"); and

- A. The Company is to construct and operate 37 units of senior citizen housing (the "Apartments") to be erected on certain real property located on 16 St. John Avenue, Binghamton, New York, as more specifically described on Exhibit A (the "Land", the Land and Apartments being sometimes hereafter referred to as the "Project"), to be financed through funds from NYS Housing Trust Fund and the sale of Low Income Tax Credits and a grant from the City of Binghamton.
- B. The Land is identified by the Assessor for the city as parcel 03-0020-009, ("Tax Parcel") and is assessed at the time of its acquisition by the Company at a value of Two Hundred Twenty Thousand and 00/100 Dollars (\$220,000.00), ("Land Value Assessment").
- C. Section 125 of the Law authorizes the City and, by contract, to agree with the Company to exempt from local and municipal taxes, including special taxes other than assessments for local improvements, all or part of the value of the property included in the project to the extent that such value represents an increase over the Land Value Assessment.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, and other good and valuable consideration, the parties agree as follows:

Section 1. Grant of Exemption

- (a) The City agrees to and hereby does, to the extent provided herein, exempt from all local and municipal taxes, and from such taxes as may be levied by or on behalf of any taxing jurisdiction as defined in Subdivision 1(d) of Section 125 of the Law, the value of the Project which represents an increase over the Land Value Assessment, other than assessments for local improvements. The Company shall pay all sums due on the Land Value Assessment multiplied by the annual tax rates established for each Municipality ("Land Taxes"). Such annual payments as made under this Section 1 shall be made at the same time the Annual PILOT Payments are made pursuant to Section 5 herein.

Section 6. Method of Payment.

All annual PILOT Payments for years 1999 through 2014 shall be paid by cash or check to the City for distribution among the Municipalities. The City shall provide a receipt to the Company for any cash payment. This acknowledges that the payments to be made by the company hereunder for years 1999 through 2014 shall be distributed to the Municipalities in accordance with an agreement to be entered into by and among the Municipalities.

Section 7. Termination

This Agreement and the exemption granted hereunder shall terminate upon an event of default as provided herein and/or the mortgage to be held by the Housing Trust Fund Corporation is satisfied and/or the Company is no longer a redevelopment company as defined under Article 5 of the Private Housing Finance Law.

Section 8. Default

The occurrence of any of the following conditions shall constitute an event of default ("Event of Default"), as that term is used herein:

- (a) The Company's failure to pay in full any payment due under this Agreement within sixty (60) days of receipt of a written notice from the Municipality, as defined herein indicating the amount that is past due.
- (b) The Company's failure to comply with, or perform according to any provision of this Agreement, if such failure continues in whole or in part for more than sixty (60) days after the date written notice of such failure is required by the Company from the Municipality.

Section 9. Default

Any municipality, against which the Company has defaulted, may exercise any and all rights or remedies permitted by law. Without limiting the generality of the foregoing, and in addition to all other rights and remedies, the Municipality shall also have the following specific rights and remedies upon an Event of Default.

- (a) To terminate this Agreement and or the exemption granted hereunder sixty (60) days from the date of the Company's receipt of the Notice of Default, provided, however, the Company shall have such time to cure any default.

Section 10. Rental Payments

For the period 1999 through 2014, the rental charged for apartments in the Project shall not exceed the maximum amounts allowed by the Housing Trust Fund Corporation.

Section 2. Duration of Exemption

The exemption granted in Section 1 shall remain in effect during the term of this Agreement.

Section 3. Term of Agreement

The term of this agreement shall commence on the date of the acquisition of the Land by the Company and shall remain in effect for fifteen years with a commitment to negotiate a new agreement or extension for so long as the State-aided mortgage of the State of New York, acting through the Housing Trust Fund Corporation, is outstanding, not to exceed thirty (30) years, unless terminated earlier as a result of an Event of Default as provided in Section 8.

Section 4. Special Assessments

The Exemption Statute does not entitle the owner of the Land and Apartments to an exemption from the obligation to pay assessments for local improvements (as that term would be construed under said statute). The Company, therefore, specifically agrees to pay all assessments for local improvements assessed and/or levied against the Land and Apartments by the Municipalities, provided such assessments for local improvements are not determined to be taxes levied by a defined taxing jurisdiction.

Section 5. Annual PILOT Payments

The Company will make Annual PILOT Payments for calendar years 1999 through 2014 as follows:

- (1) for calendar year 1998 the parties hereto acknowledge that all Land Taxes will be paid to the municipalities and that no further tax payments will be required;
- (2) for each calendar year 1999 through 2004, the Company shall make Annual PILOT Payments equal to \$400.00 per apartment unit, for a total of \$14,800.00 per year. For calendar years 2005 through 2010 the annual payment will be \$440.00 per unit, for a total of \$16,280.00. For calendar years 2011 through 2014 the annual payment will be \$484.00 per unit for a total of \$17,908.00. For the remainder of the period terms of a new agreement or extension of this agreement will be negotiated prior to the start of the sixteenth years.

Payments for such Annual PILOT Payments shall be made to the City on or before April 1 of the next succeeding calendar year. If payments are received late, interest and penalties shall accrue in accordance with the Real Property Tax Law.

All Annual PILOT Payments shall be adjusted as provided in Section 1 and Section 4 herein.

Section 11. Representation and Warranties of the Company

The Company represents and warrants that:

- (a) It is duly organized and existing redevelopment company created and operated in accordance with the provisions of Article 5 of the Private Housing Finance Law and other laws of the State of New York;
- (b) It has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder;
- (c) This Agreement constitutes a legal, valid, and binding obligation of the Company enforceable in accordance with its terms;
- (d) To the best of my knowledge of the Company, the execution and delivery of this Agreement does not, and the performance of this Agreement will not, violate any law, regulation, ordinance, judicial order, judicial decree, or any agreement, indenture, note, or other instrument to which it is party.
- (e) To the best knowledge of the company there is no claim, action, arbitration, or administrative proceeding pending, threatened against, or involving the Company which, if adversely determined, would question the validity of this Agreement or would have a material adverse effect on the financial condition of the Company.

Section 12. Joint and Several Representations of the City

The City represents and warrants as follows:

- (a) That the City has the full power and authority to execute and deliver this Agreement and to perform obligations hereunder and the governing body of the Municipality has by necessary and appropriate resolutions, authorized the execution and delivery of this Agreement by the officer or representative so executing the same.
- (b) This Agreement constitutes a legal, valid and binding obligation of the City enforceable in accordance with its terms.

Section 13. Assignment

The Company shall not assign, transfer or otherwise dispose of this Agreement or any right, title or interest therein, without the previous written consent of the City, which consent shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and years first above set forth.

CITY OF BINGHAMTON

By: _____
Richard A. Bucci, Mayor

HAMILTON HOUSE APARTMENTS
COMPANY I, L.P.

By: _____

STATE OF NEW YORK :
COUNTY OF BROOME : ss:
CITY OF BINGHAMTON:

On this _____ day of _____, 1998, before me the undersigned personally appeared RICHARD A. BUCCI, who being by me duly sworn, deposes and says: That he is the Mayor of the City of Binghamton, the municipal corporation named in and which executed the above instrument; that he knows the seal of said City; and that the seal affixed to this instrument is such corporate seal and that it was so affixed by order of the Council of said City; and that he signed his name thereto by like order.

Notary Public

STATE OF NEW YORK :
COUNTY OF BROOME : ss:
CITY OF BINGHAMTON:

On this _____ day of _____, 1998, before me the undersigned personally appeared _____, who being by me duly sworn, deposes and says: That he is the _____ of the Hamilton House Apartments Company I, L.P. the corporation named in and which executed the above instrument; that he knows the seal of said corporation; and that the seal affixed to this instrument is such corporate seal and that it was so affixed by order of said corporation; and that he signed his name thereto by like order.

Notary Public



Legislative Branch

RL Number:

15-104

Date Submitted:

6/4/2015

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

REQUEST FOR LEGISLATION

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Applicant Information

Request submitted by: Jeremy Pelletier, City Clerk

Title/Department: City Clerk's Office

Contact Information: 607-772-7005 clerk@cityofbinghamton.com

RL Information

Proposed Title: A Resolution authorizing a five (5) year lease extension with Volunteers

Improving Neighborhood Environments (VINES) to include 16 and 20 Tudor Street, 9 and 11 Varick Street, and 126 Susquehanna Street

Suggested Content: Board of Estimate & Apportionment approved the lease agreement on 6/4/15.

VINES will pay the City of Binghamton \$1.00 per year for five years for continued use of these properties

as community gardens provided that VINES supplies the City of Binghamton with general liability

insurance

Additional Information

Does this RL concern grant funding? Yes No

If 'Yes', is the required RL Grant Worksheet attached? Yes No

Is additional information related to the RL attached? Yes No

Is RL related to previously adopted legislation? Yes No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): _____

OFFICE USE ONLY

Mayor: _____

Comptroller: _____

Corporation Counsel: _____

Finance Planning MPA PW/Parks Employees Rules/Special Studies



THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK

Date: May 4, 2011

Sponsored by Council Members: Rennia, Webb, Gerchman, Weslar, Massey, Collins, Kramer

Introduced by Committee: Finance

RESOLUTION

entitled

A RESOLUTION AUTHORIZING THE MAYOR
TO AMEND THE LEASE WITH VINES TO ADD
9 & 11 VARICK STREET AND 126
SUSQUEHANNA STREET

WHEREAS, on April 7, 2010, the Council of the City of Binghamton adopted Permanent Resolution 10-30, entitled "A Resolution Authorizing VINES to Lease 16 and 20 Tudor Street," for use of said property for a community garden and provided that Volunteers Improving Neighborhood Environments ("VINES") provide the City of Binghamton general public liability insurance naming the City as an additional insured (the "Lease"); and

WHEREAS, VINES has requested to add 9 Varick Street, Tax Parcel No. 160.50-2-28, 11 Varick Street, Tax Parcel No. 160.50-2-27, and 126 Susquehanna Street, Tax Parcel No. 160.50-2-7 to the Lease; and

WHEREAS, the Board of Estimate and Apportionment has approved the proposed amendment to the Lease.

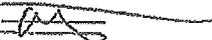
WHEREAS, the Council of the City of Binghamton has determined the amended lease to be in the best interest of the City.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby:

RESOLVE that the Mayor of the City of Binghamton, or his designee, is hereby authorized to amend the Lease, approved as to form and content by the Office of Corporation Counsel, with VINES to add 9 Varick Street, Tax Parcel No. 160.50-2-28 (upon transfer from the County), 11 Varick Street, Tax Parcel No. 160.50-2-27, and 126 Susquehanna Street, Tax Parcel No. 160.50-2-7 to the Lease.

I hereby certify the above to be a true copy
of the legislation adopted by the Council
of the City of Binghamton at a meeting
held on 5/18/11. Approved by the
Mayor on 5/20/11.



Legal Counsel Approval 
R.L. 10-042

Intro. No. R10-30
Perm. No. R10-30



IN
THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK

Dated: April 7, 2010

Sponsored by Councilmember(s): Massey, Rennia, Weslar, Webb, Gerchman, Collins, Kramer
Introduced by Committee(s) on: Planning and Community Development

RESOLUTION
entitled

A RESOLUTION AUTHORIZING VINES TO LEASE
16 AND 20 TUDOR STREET

WHEREAS, Volunteers Improving Neighborhood Environments ("VINES") wishes to lease 16 and 20 Tudor Street, Binghamton, New York (the "Premises"), for use as a community garden open to the public; and

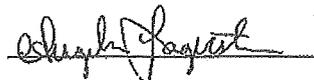
WHEREAS, VINES is requesting a five (5) year lease of the Premises; and

WHEREAS, VINES will pay rent of one dollar (\$1.00) per year and provide general public liability insurance naming the City as an additional insured.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby:

RESOLVE, that the Mayor is hereby authorized to execute any and all documentation, approved as to form and content by the Office of Corporation Counsel, necessary to effectuate a five (5) year lease of 16 and 20 Tudor Street, Binghamton, New York, to Volunteers Improving Neighborhood Environments ("VINES") for use as a community garden for rent of one dollar (\$1.00) per year, and that VINES shall provide general public liability insurance naming the City as an additional insured.

I HEREBY CERTIFY the above to be a true copy of a Resolution adopted by the Council of the City of Binghamton at a regular business meeting held on April 7, 2010. Approved by the Mayor on April 12, 2010.

 (Angela Fagerstrom, Deputy City Clerk)



Legislative Branch

RL Number:

15-105

Date Submitted:

6/10/15

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

REQUEST FOR LEGISLATION

Requests for Legislation (RLs) may be submitted to the City Clerk's Office for consideration at City Council Work Sessions. RLs generated from within City Hall departments must be submitted to the Mayor, Comptroller and Corporation Counsel for review before submission. RLs generated by citizens may be submitted directly to the City Clerk's Office.

Applicant Information

Request submitted by: William M. Barber

Title/Department: Commissioner of Parks and Recreation

Contact Information: 772-7017/wmbarber@cityofbinghamton.com

RL Information

Proposed Title: Free Pool Passes for Binghamton Elementary Students

(Amend Htc)

Suggested Content: Request legislation for Parks and Recreation Department to supply up to twenty five pool passes for each of the seven elementary schools in the City of Binghamton. The recipients will be determined each year by a school administrator using criteria such as, perfect attendance, academic achievement, character etc.

Additional Information

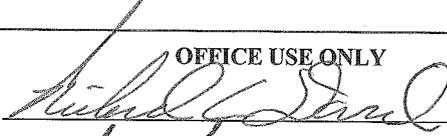
Does this RL concern grant funding? Yes No

If 'Yes', is the required RL Grant Worksheet attached? Yes No

Is additional information related to the RL attached? Yes No

Is RL related to previously adopted legislation? Yes No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): _____

OFFICE USE ONLY					
Mayor:					
Comptroller:					
Corporation Counsel:					
Finance <input type="checkbox"/>	Planning <input type="checkbox"/>	MPA <input type="checkbox"/>	PW/Parks <input checked="" type="checkbox"/>	Employees <input type="checkbox"/>	Rules/Special Studies <input type="checkbox"/>



Legislative Branch

RL Number:
13-106
Date Submitted:
6/10/15

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

REQUEST FOR LEGISLATION

Requests for Legislation (RLs) may be submitted to the City Clerk's Office for consideration at City Council Work Sessions. RLs generated from within City Hall departments must be submitted to the Mayor, Comptroller and Corporation Counsel for review before submission. RLs generated by citizens may be submitted directly to the City Clerk's Office.

Applicant Information

Request submitted by: Richard Perkins

Title/Department: Acting City Engineer, Engineering

Contact Information: rkperkins@cityofbinghamton.com, 772-7007

RL Information

Proposed Title: Resolution to adopt an affirmative action plan as required under the NYS

Community Development Block Grant-Disaster Recovery (CDBG-DR) Program

Suggested Content: Participation in the NYS CDBG-DR program requires the adoption of an

affirmative action plan necessary for the implementation of projects funded under the program,

further information is attached.

Additional Information

Does this RL concern grant funding? Yes No

If 'Yes', is the required RL Grant Worksheet attached? Yes No

Is additional information related to the RL attached? Yes No

Is RL related to previously adopted legislation? Yes No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): R14-68

OFFICE USE ONLY	
Mayor:	<u>[Signature]</u>
Comptroller:	<u>[Signature]</u>
Corporation Counsel:	<u>[Signature]</u>
Finance <input type="checkbox"/>	Planning <input checked="" type="checkbox"/>
MPA <input type="checkbox"/>	PW/Parks <input type="checkbox"/>
Employees <input type="checkbox"/>	Rules/Special Studies <input type="checkbox"/>

SAMPLE

**OFFERED BY
SECONDED BY**

RESOLUTION NO. _____

A RESOLUTION TO ADOPT AN AFFIRMATIVE ACTION PLAN AS REQUIRED UNDER THE NEW YORK STATE COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RECOVERY (CDBG-DR) PROGRAM.

WHEREAS, the City of Binghamton is a subrecipient receiving New York State Community Development Block Grant-Disaster Recovery (CDBG-DR) funds, as administered by the Governor's Office of Storm Recovery (GOSR) of the New York State Housing Trust Fund Corporation (HTFC) to assist in addressing unmet needs from either Hurricane Irene, Tropical Storm Lee, or Super Storm Sandy; and,

WHEREAS, participation in the New York State CDBG-DR Program requires the adoption and implementation of an Affirmative Action Plan to meet the Equal Employment Opportunity (EEO) requirements of Executive Order 11246 and other program policies; and,

WHEREAS, the purpose of this plan is to prohibit workplace employment discrimination on the basis of age, race, color, religion, gender, creed, national origin, physical or mental disability, marital status, veteran status, disabled veteran status, or status as a member of any other protected group or activity.

NOW, THEREFORE, BE IT RESOLVED by the City of Binghamton that the attached Affirmative Action Plan be hereby officially adopted for implementation in the New York State CDBG-DR Program.

This document is a sample Affirmative Action Plan and Resolution and is not intended to be and should not be construed in any way as legal advice by the Governor's Office of Storm Recovery (GOSR). All sample or template documents provided by GOSR should be reviewed by an attorney prior to adoption.

**City of Binghamton, Subrecipient
NEW YORK STATE
GOVERNOR'S OFFICE OF STORM RECOVERY (GOSR)
COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RECOVERY (CDBG-DR) PROGRAM**

AFFIRMATIVE ACTION PLAN

The City of Binghamton has adopted the following Affirmative Action Plan to meet the Equal Employment Opportunity (EEO) requirements of Executive Order 11246 and the program policies of the New York State Community Development Block Grant-Disaster Recovery (CDBG-DR) Program. Executive Order 11246 prohibits federal contractors and subcontractors from engaging in workplace employment discrimination on the basis of age, race, color, religion, gender, creed, national origin, physical or mental disability, marital status, veteran status, disabled veteran status, or status as a member of any other protected group or activity.

- 1) The City of Binghamton is committed to equal employment opportunity and as part of its Affirmative Action Plan shall:
 - a) Recruit, hire, upgrade, train, and promote in all job classifications, without regard to age, race, color, religion, gender, creed, national origin, physical or mental disability, marital status, veteran status, disabled veteran status, or status as a member of any other protected group or activity.
 - b) Base employment decisions on the principles of equal employment opportunity, and with the intent to further the City of Binghamton's commitment to affirmative action;
 - c) Ensure that all terms and conditions of employment such as compensation, benefits, layoff, return from layoff, training, educational tuition assistance, and social and recreation programs, shall be administered without regard to age, race, color, religion, gender, creed, national origin, physical or mental disability, marital status, veteran status, disabled veteran status, or status as a member of any other protected group or activity.
 - d) Ensure that promotion decisions will be made in accordance with the principles of affirmative action by imposing only valid requirements for promotional opportunities;
 - e) Take action to prevent harassment or intimidation of all employees, particularly those encompassed by the City of Binghamton's affirmative action efforts.

This document is a sample Affirmative Action Plan and Resolution and is not intended to be and should not be construed in any way as legal advice by the Governor's Office of Storm Recovery (GOSR). All sample or template documents provided by GOSR should be reviewed by an attorney prior to adoption.

- 2) The City of Binghamton will post the federal EEO Poster in a conspicuous location.
- 3) In all solicitations or advertisements for employment the City of Binghamton shall state that all qualified applicants will receive consideration for employment without regard to age, race, color, religion, gender, creed, national origin, physical or mental disability, marital status, veteran status, disabled veteran status, or status as a member of any other protected group or activity.
- 4) The City of Binghamton will maintain written employment records to demonstrate compliance with Executive Order 11246.
- 5) The City of Binghamton will pursue opportunities to recruit and develop qualified job candidates to avoid employment barriers and to ensure equal opportunity for candidates.
- 6) The City of Binghamton's Affirmative Action Plan will be posted on the Human Resources Office web page at _____(website address).
- 7) _____(Title of officer) has been assigned responsibility for the implementation and administration of this Affirmative Action Plan.

This document is a sample Affirmative Action Plan and Resolution and is not intended to be and should not be construed in any way as legal advice by the Governor's Office of Storm Recovery (GOSR). All sample or template documents provided by GOSR should be reviewed by an attorney prior to adoption.



Legislative Branch

RL Number:

15-107

Date Submitted:

6/10/15

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

REQUEST FOR LEGISLATION

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Applicant Information

Request submitted by: Richard Perkins

Title/Department: Acting City Engineer, Engineering

Contact Information: rkperkins@cityofbinghamton.com, 772-7007

RL Information

Proposed Title: Resolution to adopt Section 504 Policies and greivance procedures required under the NYS Community Development Block Grant-Disaster Recovery (CDBG-DR) Program

Suggested Content: Participation in the NYS CDBG-DR program requires the adoption of Section 504 Policies and Grievance Procedures necessary for the implementation of projects funded under the program, further information is attached.

Additional Information

Does this RL concern grant funding? Yes No

If 'Yes', is the required RL Grant Worksheet attached? Yes No

Is additional information related to the RL attached? Yes No

Is RL related to previously adopted legislation? Yes No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): R14-68

OFFICE USE ONLY	
Mayor:	<u>[Signature]</u>
Comptroller:	<u>[Signature]</u>
Corporation Counsel:	<u>[Signature]</u>
Finance <input type="checkbox"/>	Planning <input checked="" type="checkbox"/>
MPA <input type="checkbox"/>	PW/Parks <input type="checkbox"/>
Employees <input type="checkbox"/>	Rules/Special Studies <input type="checkbox"/>

OFFERED BY:

SECONDED BY:

RESOLUTION NO. _____

**A RESOLUTION ADOPTING THE FOLLOWING SECTION 504 POLICIES AND
GRIEVANCE PROCEDURES FOR THE CITY OF BINGHAMTON**

SECTION 504 RESOLUTION/CITY OF BINGHAMTON

WHEREAS, Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs and activities conducted by the U.S. Department of Housing and Urban Development (HUD) or by grantees that receive financial assistance from HUD, and

WHEREAS, Part 8 of Title 24 of the Code of Federal Regulations (24 CFR) requires adoption of grievance procedures to address complaints of those who feel they may have been discriminated against on the basis of disability and also requires the provision of notice of said grievance procedures, and

WHEREAS, it is the policy of the *City of Binghamton* not to discriminate against any individual, person, or group on the basis of disability and the intent of the *City of Binghamton* to address any complaints that may arise pursuant to Section 504,

NOW, THEREFORE, BE IT RESOLVED that the *City of Binghamton* does hereby adopt by resolution internal grievance procedures (the "Procedure") providing for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 of the U.S. Department of Health and Human Services regulations implementing the Act, and

BE IT FURTHER RESOLVED, that the *City of Binghamton* does hereby designate the _____ (*insert TITLE ONLY of appointed Grievance Coordinator, i.e. Village Clerk, Town Supervisor, etc.*) as the Grievance Coordinator who shall be responsible for receiving and addressing complaints pursuant to the Procedure adopted hereby and attached hereto, and

BE IT FINALLY RESOLVED, that the *City of Binghamton* will place its employee, the public, and potential beneficiaries of certain federal public programs on notice by undertaking certain actions that will include, but may not be limited to (1) providing a copy of the grievance procedure to its employees, (2) putting the public on notice by placing a notice in the *City of Binghamton's* official newspaper, posting of notices in the *City of Binghamton's* offices and facilities, placing notices in *the City of Binghamton's* publications, and/or distribution of memoranda or other written communications subsequent to adoption of this Procedure, (3) placing copies of the Procedure in the

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5/11/2015

-----*(insert location of where Procedure can be viewed such as Village Offices, Clerk's Office, City Hall, etc.)* for review and dissemination, and (4) adding language to federal program brochures to insure all potential program beneficiaries are aware of the *City of Binghamton* adopted grievance procedures.

BACKGROUND: Section 504 of the Rehabilitation Act of 1973 (the "Act") as amended prohibits discrimination on the basis of disability in programs and activities conducted by HUD or that receive financial assistance from HUD. This includes the New York State Community Development Block Grant-Disaster Recovery (CDBG-DR) Program funded by HUD, administered by the Governor's Office of Storm Recovery (GOSR), and under which the *City of Binghamton* has received financial assistance. The Act specifically provides that no qualified individual shall, solely by reason of his or her handicap, be excluded from program participation, including employment, be denied program benefits, or be subjected to discrimination. The Americans with Disabilities Act of 1990 (ADA) established provisions for assuring equality of opportunity, full participation, independent living, and self-sufficiency of disabled persons relative to employment, benefits and services, accommodations, commercial facilities, and multi-family housing.

SECTION 504 POLICY/COMPLIANCE: Part 8 of Title 24 of the Code of Federal Regulations (24 CFR) requires the adoption and notice/publication of ADA grievance procedures for municipalities with 15 or more employees, Sections 8.53 and 8.54, respectively. Therefore, be it known that it is the policy of the *City of Binghamton* not to discriminate on the basis of disability. Towards that end, the *City of Binghamton* has adopted by resolution an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) of the U.S. Department of Health and Human Services regulations implementing the Act. The subject law and implementing regulations may be examined in the -----*(insert location of where policy can be viewed i.e. Village Clerk's Office, Mayor's Office, etc.)*. The -----*(insert TITLE of Grievance Procedure Coordinator here rather than a person's name, i.e. Town Code Enforcer, City Clerk, etc.)* for the *City of Binghamton* has been designated to coordinate the efforts of the *City of Binghamton* with respect to Section 504 compliance. This information can also be accessed on the Internet at the following address: http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504. The -----*(insert name of office where coordinator is located i.e. Code Enforcer's office)* is located at -----*(insert street address and name of subrecipient here)*, New York. The Section 504 Coordinator can be reached at -----*(insert phone number here including area code)*.

GRIEVANCE PROCEDURE: Any person who believes he or she has been subjected to discrimination on the basis of disability may file a grievance under the

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5/11/2015

procedure adopted by the *City of Binghamton* outlined below.

- Grievances must be submitted to the Section 504 Coordinator within 60 days of the date the person filing the grievance becomes aware of the alleged discriminatory action.
- A complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
- The Section 504 Coordinator (or her/his designee) shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Section 504 Coordinator will maintain the files and records of the *City of Binghamton* relating to such grievances.
- The Section 504 Coordinator will issue a written decision on the grievance no later than 30 days after its filing.
- The person filing the grievance may appeal the decision of the Section 504 Coordinator by writing to the *City of Binghamton (Board, Council, etc.)* within 15 days of receiving the Section 504 Coordinator's decision. The *City of Binghamton (Board, Council, etc.)* shall issue a written decision in response to the appeal no later than 30 days after its filing.
- The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the U. S. Department of Health and Human Services, Office for Civil Rights.

The *City of Binghamton* will make appropriate arrangements to ensure that disabled persons are provided accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Section 504 Coordinator will be responsible for such arrangements.

It is against the law for the *City of Binghamton* to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

ADOPTED: _____

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5/11/2015



Legislative Branch

RL Number:

15-108

Date Submitted:

6/10/15

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

REQUEST FOR LEGISLATION

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Applicant Information

Request submitted by: Rich Perkins

Title/Department: Acting City Engineer / Engineering

Contact Information: 772-7007, rkperkins@cityofbinghamton.com

RL Information

Proposed Title: Resolution to enter into an Agreement with McFarland Johnson to provide construction inspection services for Front Street Pavement Restoration Project. PIN 9753.86

Suggested Content: This agreement for \$14,985 is to provide inspection services for this federally funded project. This project is 80% federal reimbursement and 15% state funded. Funding is available in H5112.525138.40914

Additional Information

Does this RL concern grant funding? Yes No

If 'Yes', is the required RL Grant Worksheet attached? Yes No

Is additional information related to the RL attached? Yes No

Is RL related to previously adopted legislation? Yes No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): R14-11

OFFICE USE ONLY	
Mayor:	<u>[Signature]</u>
Comptroller:	<u>[Signature]</u>
Corporation Counsel:	<u>[Signature]</u>
Finance <input checked="" type="checkbox"/>	Planning <input type="checkbox"/> MPA <input type="checkbox"/> PW/Parks <input type="checkbox"/> Employees <input type="checkbox"/> Rules/Special Studies <input type="checkbox"/>

Scope of Services

Prepared for:

City of Binghamton

Describing Services for:

Front Street Pavement Restoration - CI

6/10/15



Table of Contents

	Pages
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Section 9 Construction Inspection	6 - 9
Section 10 Estimating & Technical Assumptions	10

Section 1 - General

1.01 Project Description and Location

This project is known as:

Front Street Pavement Restoration – PIN 9753.86

Description of Work: Milling 2" of asphalt, placement of fiber reinforced surface pavement, tack coat, hot mix asphalt top course and pavement markings on Front Street from the intersection of Clinton Street to Main Street.

McFarland-Johnson, Inc. (the "**Consultant**") shall provide Construction Phase Services for Broome County (the "**Municipality**") related to the project identified above.

Project Limits: Front Street from the intersection of Clinton Street to the intersection of Main Street.

Municipality: City of Binghamton

All work performed by the **Consultant** at the **Consultant's** initiative must be within the current project limits specified above.

1.02 Contract Administrator

The **Municipality's** Contract Administrator for this project is:

Name: Richard Perkins
Phone #: 607-772-7007
Email: rkperkins@cityofbinghamton.com

All correspondence to the **Municipality** should be addressed to:

City of Binghamton
Department of Engineering
38 Hawley Street, 3rd Floor
Binghamton, NY 13901-3776

The **Municipality's** Contract Administrator should receive copies of all project correspondence directed other than to the **Municipality**.

1.03 Project Classification

This project is a Class II Programmatic Categorical Exclusion action under USDOT Regulations, 23 CFR 771.

Classification under the New York State Environmental Quality Review Act (SEQRA) Part 617, Title 6 of the Official Compilation of Codes, Rules, and Regulations of New York State (6 NYCRR

Part 617) is a Type II.

1.04 Categorization of Work

Project work is generally divided into the following sections:

Section 1	General
Section 8	Construction Support
Section 9	Construction Inspection
Section 10	Estimating & Technical Assumptions

When specifically authorized in writing to begin work the **Consultant** will render all services and furnish all materials and equipment necessary to provide the **Municipality** with reports, plans, estimates, and other data specifically described in Sections 1, 8, 9 and 10.

1.05 Project Familiarization

The **Consultant's** construction inspection staff shall become familiar with the project before starting any work. This shall include a thorough review of the Contract Plans and Specifications and a site visit to become familiar with field conditions.

1.06 Meetings – (Not Used)

Included in Section 9.

1.07 Cost and Progress Reporting

For the duration of this agreement, the **Consultant** will prepare and submit to the **Municipality** on a monthly basis a Progress Report in a format approved by the **Municipality**. The Progress Report must contain the "Progress Report Summary Sheet" (Appendix 6-H of the "Locally Administered Federal Aid Procedures Manual"). The beginning and ending dates defining the reporting period must correspond to the beginning and ending dates for billing periods, so that this reporting process can also serve to explain billing charges. (In cases where all work under this contract is officially suspended by the **Municipality**, this task will not be performed during the suspension period).

1.08 Policy and Procedures

A. Compliance with documents

All services shall conform to current versions of the following documents, as applicable. Where necessary, the **Consultant** will obtain either the full document or guidance extracted from it.

- NYSDOT *Manual for Uniform Record Keeping* (MURK)
- Locally Administered Federal Aid Procedures Manual

B. Compliance with Environmental Laws, Regulations and Permits

All Consultant work shall meet the requirements of all applicable state and federal environmental laws, regulations and policy (specified in Appendix 1 of the NYSDOT *Project Development Manual*).

1.09 Specifications

The project will be constructed in accordance with the current edition of the NYSDOT Standard Specifications for Construction and Materials, including all applicable revisions.

Section 2 – 7

(NOT USED)

Section 8 - Construction Support

8.01 Construction Support

The **Consultant** shall provide design response to unanticipated or changed field conditions, analyze and participate in proposed design changes, and explain the design, drawings, plans and specifications to the Construction Contractor in understandable terms.

Work under this section shall be in response to a specific assignment from the **Municipality** under one of the tasks below:

- In response to unanticipated and/or varying field conditions or changes in construction procedures, the **Consultant** shall conduct on-site field reconnaissance and, where required, prepare Field Change Sheets modifying pertinent contract plan sheets.
- The **Consultant** shall analyze and make recommendations regarding the implementation of changes proposed by the **Municipality** or the Construction Contractor.
- The **Consultant** shall review and approve all shop drawings produced by the Construction Contractor showing the different portions of the work. Review and approval of shop drawings shall be limited to assuring conformance and compatibility with the information given in the Construction Contractor's contract documents. Such reviews and approvals or other actions shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incidental thereto.

Section 9 - Construction Inspection

9.02 Inspection

The **Consultant** shall provide, to the satisfaction of the **Municipality**, contract administration and construction inspection services from such time as directed to proceed until the completion of the final agreement and issuance of final payment for the Construction Contract. The **Consultant** shall assume responsibility, as appropriate, for the administration of the Construction Contract including maintaining project records, processing payments, and performing detailed inspection work and on-site field tests of materials and items of work incorporated into the Construction Contract. Work shall be consistent with federal, state and local policies, and the specifications and plans applicable to the project.

The **Consultant** will prepare for and attend a preconstruction conference as directed by the **Municipality's** Contract Administrator. On-site job meetings will be conducted by the **Consultant** on a regular basis (assume bi-monthly). The **Consultant** will be responsible for the preparation of meeting minutes; the minutes will be submitted to meeting attendees within one (1) week of the meeting date.

The **Consultant** shall provide full-time construction inspection staff that will oversee the Construction Contractor's operations/services to ensure the work is performed as described in the Construction Contractor's Contract Documents and that the work performed conforms to the Construction Contractor's Contract requirements. Responsibilities of the **Consultant's** construction inspection staff shall include the following:

- Field inspect Construction Contractor's and Subcontractor's activities, including labor, equipment and subcontractor utilization.
- Confirm all necessary material certifications are received and in order before the materials are incorporated into the work.
- Prepare daily inspection reports, which will be available in the **Consultant's** Construction Inspector's field office for review by the **Municipality** or the State.
- Maintain project diary and records in accordance with the MURK procedures and Federal Highway Administration (FHWA) standards.
- Take necessary field measurements and compute quantities of work and materials, which shall form the basis for certifying the Construction Contractor's requests for payment.
- Coordinate Subcontractor testing services to assure conformance with the requirements of the Construction Contract Documents for soil and material testing. Said testing shall be performed if additional testing is required beyond what the Construction Contractor is required to provide by the Construction Contract Documents, or if deemed necessary to verify testing results provided by the Construction Contractor's independent testing agency.
- Ensure the Construction Contractor and Subcontractors are fully aware of the requirements and special conditions of the New York State Department of Environmental Conservation (NYSDEC) and the Army Corps of Engineers (ACOE) permits issued to the **Municipality** for this project.
- Conduct and document the preconstruction and biweekly progress meetings between the Construction Contractor and the **Municipality**.

- Review the proposed Subcontractors to ensure they are not on any debarred lists and that they are authorized to work in New York State.
- Ensure Construction Contractor's and Subcontractor's compliance with all Equal Employment Opportunity (EEO) requirements.
- Review and certify monthly payment requests submitted by the Construction Contractor.
- Prepare in a form approved by the **Municipality** all construction change orders for the County's signature and provide justification for each. The **Consultant** shall advance negotiations and make recommendations regarding approvals of change orders.
- Assist the **Municipality's** Project Engineer with keeping the public, affected property owners and key organizations apprised of road closure and construction activity.
- Maintain one set of record plans, marked up with all revisions found necessary. This set of record plans will be available in the **Consultant's** Construction Inspector's field office for review by the **Municipality**, and said set shall be given to the **Municipality** at the completion of the project.
- Participate in the final review of the completed project and perform an orderly "project close out" ensuring all paperwork required by the Federal Government, State Government and the **Municipality** is properly submitted; all of the Construction Contractor's invoices have been properly submitted to the **Municipality**; and any other additional services required by the **Municipality** to complete the project are accomplished.

9.03 Municipal Project Engineer

The **Municipality** shall assign a Project Engineer to the project covered by this Agreement. This Project Engineer shall be the **Municipality's** official representative on the project and the **Consultant** shall report to, and be directly responsible to, said Project Engineer.

9.04 Ethics

Prior to the start of work, the **Consultant** shall submit to the **Municipality** a statement regarding conflicts of interest.

9.05 Staff Qualifications and Training

The **Consultant** shall provide sufficiently trained personnel to adequately and competently perform the requirements of this Agreement.

9.06 Scope of Services and Performance Requirements

A. Quality

The **Consultant** shall enforce the specifications and immediately notify the **Municipality** of local conditions, errors on the plans, or defects in the work or materials which would conflict with the quality of work, and conflict with the successful completion of the project. The **Consultant** shall not be responsible for the acts or omissions of any Contractor(s), or of any Subcontractor or supplier, or any of the Contractor's work, nor shall the **Consultant** have the responsibility to supervise, direct, or control Contractor's work or for the means, methods, techniques, sequences, or procedures of construction or for the safety precautions or safety programs of the Contractor(s). The **Consultant** shall verbally notify

the construction contractor when instances of non-compliance with the plans, specifications, contract items and conditions occur, followed in writing if the issue(s) isn't resolved immediately. The **Consultant** shall keep a record of non-compliant items and prepare follow-up correspondence to the construction contractor until these items are corrected or resolved.

B. Record Keeping & Payments to the Construction Contractor

The **Consultant** will compile and maintain adequate records to document that the contract was administered in compliance with the contract provisions and specifications. Project documentation will follow an in-house record-keeping system, which makes use various NYSDOT Manual of Uniform Record Keeping (MURK) forms, where appropriate, along with other appropriate forms and necessary backup/support documentation. Records will be kept in accordance with MURK. The **Consultant** shall take measurements and collect other pertinent information necessary to prepare daily inspection reports, monthly and final estimates, survey notes, record plans showing changes from contract plans, photographs of various phases of construction, and other pertinent data, records and reports for proper completion of records of the Construction Contract.

Any record plans, engineering data, survey notes or other data provided by the **Municipality** shall be returned to the **Municipality** at the completion of the contract. Original tracings of record plans, maps, engineering data, the final estimate and any other engineering data produced by the **Consultant** shall bear the endorsement of the **Consultant**. Any documents that require an appropriate review and approval of a Professional Engineer (P.E.) licensed and registered to practice in New York State shall be signed by the P.E.

The **Consultant** shall submit the final estimate of the Construction Contract to the **Municipality** within four (4) weeks after the date of acceptance of the work by the **Municipality** and receipt of all information and backup required of the Construction Contractor. All project records shall be catalogued, indexed, packaged, and delivered to the **Municipality** within five (5) weeks after the date of the acceptance of the Construction Contract. The **Consultant** will complete record plans and transmit to the Municipality all project information, including electronic files. Record plans will be in both paper and electronic format.

C. Health & Safety/Maintenance and Protection of Traffic

- 1) The **Consultant** shall ensure that all of the **Consultant's** construction inspection staff assigned to the project are knowledgeable concerning the health and safety requirements of the Construction Contract per Federal, State and local laws, policy, procedures and specifications and adhere to all standards. Individual construction inspection staff members shall be fully informed and up to date regarding the necessary safety concerns for construction operations they are assigned to monitor, in order to protect their personal safety, and to ensure they are prepared to recognize and address any Construction Contractor oversight or disregard of project safety requirements.
- 2) The **Consultant** shall monitor the Construction Contractor's and Subcontractor's efforts to maintain traffic and protect the public from damage to person and property within the limits of, and for the duration of the Construction Contract.

D. Monitoring Equal Opportunity/Labor Requirements

The Consultant shall monitor the Contractor's adherence to Equal Employment Opportunity (EEO) and Labor requirements contained in the contract. The Consultant shall also monitor DBE requirements. The Consultant, when monitoring the Contractor's Equal Opportunity, DBE and Labor compliance, will utilize NYSDOT's Equitable Business Opportunities (EBO) civil rights reporting system, the guidance contained in the contract, standard specifications and the Municipality's policies. Monitoring tasks shall include the following:

- Inform the Contractor of the EEO requirements for the project at the preconstruction meeting.
- Review submitted federal and State EEO forms required by the Contract documents, including annual submissions required by the FHWA.
- Review the Contractor's compliance with the EEO requirements on a monthly basis. Report suspected non-compliance and deficiencies in meeting utilization goals to the Contractor for corrective action. If corrective action is unacceptable or suspected non-compliance still exists after a follow-up review, inform the **Municipality** in writing.
- Review the Contractor's Application for Dispensation of Hours, and check that Dispensation is granted by the NYS Department of Labor prior to any unauthorized overtime work.
- Inform the Contractor of the wage rate requirements for the project at the preconstruction meeting. Review contractor and subcontractor certification forms indicating compliance with Section 220-a of the NYS Labor Law. Review revised certifications if the wage rate schedule changes during the project.
- Review weekly payroll statements of the Contractor and subcontractors for completeness. Spot check classifications, hourly rates, authorized deductions, fringe benefits, overtime hours and rates, and net wages paid for compliance with contract requirements.
- Conduct wage rate interviews (one for each labor classification during the project) to check compliance with the minimum wage rates specified in the contract documents.
- Report suspected labor law violations to the Contractor for corrective action. If corrective action is unacceptable or suspected non-compliance still exists after a follow-up review, inform the **Municipality** in writing.

Attachment A - Estimating & Technical Assumptions

10.01 Estimating Assumptions

The following assumptions have been made for estimating purposes:

Section 8) Estimate one (1) situation involving unanticipated and/or varying field conditions or changes in construction procedures that will require on-site field reconnaissance and follow up.

Section 9) Estimate construction will occur in July of 2015 having a total duration of 3 weeks.

The following construction inspection staff will be provided:

- One Resident Engineer for 3 weeks during construction.
- One Resident Engineer for 1 week for project startup/close-out

Assume 40-hour work weeks for the duration of construction.

Estimate two (2) meetings for the **Consultant's** Project Manager: one (1) Pre-Construction Meeting and one (1) Final Inspection.

Asphalt Testing:

- NYSDOT will perform asphalt plant inspection.
- The Contractor will be required to provide asphalt field testing services (coring and density testing) per the NYSDOT superpave requirements.

**Front Street Pavement Restoration
Construction Inspection Services**

City of Binghamton
PIN 9753.86

6/10/15

FEE SUMMARY



	DESIGN / PLANNING SERVICES	CONSTRUCTION SERVICES
1. DIRECT TECHNICAL LABOR		\$5,081.00
2. ESTIMATED OVERHEAD EXPENSES AND PAYROLL BURDEN Based on Percentage of Direct Salary Cost (exclusive of Premium Pay) with the estimated Percentage being 155.00 %		\$7,875.55
3. SUBTOTAL OF ITEMS 1 & 2		\$12,956.55
4. FIXED FEE / PROFIT		\$1,943.48
5. DIRECT EXPENSES		\$84.00
6. SUBCONSULTANT COSTS		
7. SUBCONTRACT COSTS - (ESTIMATE)		
8. OVERTIME PREMIUM		
9. TOTAL FEE ESTIMATE		\$14,984.03

10. TOTAL FEE FOR ALL SERVICES \$14,985

NOTE: Authorized hours worked in excess of forty per week are subject to a premium time charge

**Front Street Pavement Restoration
Construction Inspection Services**

**City of Binghamton
PIN 9753.86**

6/10/15



McFarland Johnson

McFARLAND-JOHNSON LABOR RATES

DIRECT TECHNICAL LABOR

<u>CLASSIFICATION</u>	<u>CURRENT AVG. RATE</u>	<u>PROJECT AVG. RATE</u>
Vice President (VP)	\$88.64	\$88.64
Regional Office/Division Manager (DM)	\$63.50	\$63.50
Senior Project Manager (SPM)	\$60.92	\$60.92
Sr. Project Engineer (SPE)	\$48.34	\$48.34
Project Engineer (PE)	\$43.50	\$43.50
Senior Engineer (SE)	\$36.65	\$36.65
Assistant Engineer (AE)	\$31.86	\$31.86
Junior Engineer (JE)	\$26.16	\$26.16
Senior Technician (ST)	\$29.12	\$29.12
Technician (T)	\$25.01	\$25.01
Junior Technician (JT)	\$14.40	\$14.40
Resident Engineer (RE)	\$44.00	\$44.00
Senior Inspector (SI)	\$36.50	\$36.50
Inspector (I)	\$22.00	\$22.00

Assume Notice to Proceed: 7/1/2015
 Project Duration (months): 1
 Assume Salary Escalation: 4.0%

Year	Compounded Escalation Factor	% Work in year	Effective %
2015	1.000	100.0%	100.0%
2016	1.040		
2017	1.082		
		100.0%	100.0%

**Front Street Pavement Restoration
Construction Inspection Services**

**City of Binghamton
PIN 9753.86**

6/10/15



McFarland Johnson

DIRECT COSTS

Travel Related Costs:

Vehicle Cost Plus Fuel
Lodging and Meals
Per Diem

Reproduction

CADD Plots
Prints
Photocopies

Photo Costs

Telephone/Fax:

Field Office & Inspector Equipment

DESIGN / PLANNING SERVICES	CONSTRUCTION SERVICES
	\$84

\$84

\$84



Legislative Branch

RL Number:

15-109

Date Submitted:

6/10/15

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

REQUEST FOR LEGISLATION

Requests for Legislation (RLs) may be submitted to the City Clerk's Office for consideration at City Council Work Sessions. RLs generated from within City Hall departments must be submitted to the Mayor, Comptroller and Corporation Counsel for review before submission. RLs generated by citizens may be submitted directly to the City Clerk's Office.

Applicant Information

Request submitted by: Rich Perkins

Title/Department: Acting City Engineer / Engineering Dept

Contact Information: 772-7007, rkperkins@cityofbinghamton.com

RL Information

Proposed Title: Resolution to enter into an Agreement with NYSDOT for the design of the State Street Phase 1 Pedestrian and Streetscape Improvements Project, PIN 9009.36

Suggested Content: This agreement provides 78% federal funding of the total amount of \$61,534 for preliminary design only. 15% State funding is not anticipated. Funding is available from budget line H5110.525163.21815 , State Street Reconstruction.

Additional Information

Does this RL concern grant funding? Yes No

If 'Yes', is the required RL Grant Worksheet attached? Yes No

Is additional information related to the RL attached? Yes No

Is RL related to previously adopted legislation? Yes No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): _____

OFFICE USE ONLY	
Mayor:	<u>Michael L. Dowd</u>
Comptroller:	<u>[Signature]</u>
Corporation Counsel:	<u>[Signature]</u>
Finance <input type="checkbox"/>	Planning <input type="checkbox"/>
MPA <input type="checkbox"/>	PW/Parks <input type="checkbox"/>
Employees <input type="checkbox"/>	Rules/Special Studies <input type="checkbox"/>



Department of Transportation

ANDREW M. CUOMO
Governor

JOAN McDONALD
Commissioner

JACK WILLIAMS, P.E.
Regional Director

June 4, 2015

Terry Kellogg, P.E.
Commissioner of Public Works
City of Binghamton
38 Hawley Street
Binghamton, New York 13901

Dear Commissioner Kellogg:

**RE: PIN 9009.36, D035014
State Street Phase I Pedestrian and Streetscape Improvements
City of Binghamton, Broome County**

Enclosed for processing are five copies of Master Federal Aid Local Project Agreement (D035014) to perform the Preliminary Engineering/Design (Phases 1 – 4 only)* work. The work involves the reconfiguration of the section of State Street extending from the Susquehanna Street exit and entry points, west side and east side respectively, of the State Street Bridge, approximately 900 feet in a northerly direction, to the State Street/Hawley Street intersection in the City of Binghamton, Broome County. This is a Locally Administered Project.

All five copies must have original signatures and all five copies must be notarized. In addition, five certified copies of the necessary City Resolution must accompany the Agreements (a sample resolution is included in the agreement). Please return all five copies to our Regional office for further processing. A completed copy will be returned to you once the agreement has been fully executed.

The estimated cost for the Preliminary Engineering/Design (Phases 1 – 4 only)* work is \$61,534. The City will be reimbursed 78% of \$61,534, or \$47,997, with Federal funds. The difference between \$61,534 and \$47,997 is \$13,537, which must be funded 100% by the City of Binghamton. Transportation Alternatives Program projects are not eligible for funding under the Marchiselli Program. Work performed on or after May 26, 2015 will be eligible for reimbursement. Therefore, the necessary City Resolution must authorize \$61,534 for this phase of the project.

***Please note that there has been a change in the funding procedure for the Preliminary Engineering/Design phase. This agreement is for Phases 1 – 4 only. The City of Binghamton must wait to hear from NYSDOT that funding is in place for Final Design (Phases 5 – 6) before any work can proceed with Final Design (Phases 5-6), which is at Design Approval. When the funding is in place a supplemental agreement will be executed for Final Design (Phases 5 – 6). Any work started on Final Design (Phases 5 – 6) before the obligation of funds will not be reimbursable.**

Also, please note a change regarding reimbursement of Federal and Marchiselli funds. Reimbursement of Federal funds and Marchiselli funds (if applicable) will now be made as one payment. These payments will only be as an Electronic Funds Transfer (EFT) by the Office of the State Comptroller. If you had been receiving EFT payments for your Federal reimbursements, then you will continue to receive your Federal and Marchiselli reimbursement by EFT. If you were not receiving Federal reimbursements by EFT, then you must submit an EFT Authorization Form to the Office of the State Comptroller. This form may be obtained on OSC's website at <http://www.osc.state.ny.us/epay>. If you had been receiving Marchiselli reimbursements by EFT, then they would have been by the New York State Thruway Authority and not the Office of the State Comptroller.

If you have any questions or need assistance in this matter, please contact Linda Halaburka in our Regional Planning and Program Management Office at (607) 721-8274.

Sincerely,


for Pamela M. Eshbaugh, P.E.
Regional Planning & Program Manager

PME/LH
ENC

c: L. Halaburka, Region 9 Planning and Program Management Office
J. Havtur, Region 9 Planning and Program Management Office
D. MacEwan, Region 9 Planning and Program Management Office
K. Ouimette, Region 9 Planning and Program Management Office
File – 900936-1
Blue

MUNICIPALITY/SPONSOR: City of Binghamton

PROJECT ID NUMBER: 9009.36 BIN: NA

CFDA NUMBER: 20.205

PHASE: PER SCHEDULES A

Federal aid Local Project Agreement

COMPTROLLER'S CONTRACT NO D035014

This Agreement is by and between:

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

and

the City of Binghamton (the "Municipality/Sponsor")
acting by and through Mayor Richard C. David
with its office at 38 Hawley Street, Binghamton, New York 13901.

This Agreement covers eligible costs incurred on or after 5/26/2015.

This Agreement identifies the party responsible for administration and establishes the method or provision for funding of applicable phases of a Federal aid project for the improvement of a street or highway, not on the State highway system, as such project and phases are more fully described by Schedule A annexed to this Agreement or one or more Supplemental Schedule(s) A to this Agreement as duly executed and approved by the parties hereto. The phases that are potentially the subject of this Agreement, as further enumerated below, are: Preliminary Engineering ("PE") and Right-of-Way Incidental ("ROW Incidentals") work; Right-of-Way Acquisition; Construction; and/or Construction Supervision and Inspection. The Federal aid project shall be identified for the purposes of this Agreement as Binghamton: State Street Phase I Pedestrian and Streetscape Improvements (TAP 2014) (as more specifically described in such Schedule A, the "Project").

WITNESSETH:

WHEREAS, the United States has provided for the apportionment of Federal aid funds to the State for the purpose of carrying out Federal aid highway projects pursuant to the appropriate sections of Title 23 U.S. Code as administered by the Federal Highway Administration ("FHWA"); and

WHEREAS, the New York State Highway Law authorizes the Commissioner of Transportation (hereinafter referred to as "Commissioner") to use Federal aid available under the Federal aid highway acts and provides for the consent to and approval by the Municipality/Sponsor of any project under the Federal aid highway program which is not on the State highway system before such Project is commenced; and

WHEREAS, pursuant to Highway Law §10(34-a) and section 15 of Chapter 329 of the Laws of 1991 as amended by section 9 of Chapter 330 of the Laws of 1991, as further amended by Chapter 57 of the Laws of New York of 2014, the State has established the "Marchiselli" Program, which provides certain State-aid for Federal aid highway projects not on the State highway system; and

WHEREAS, funding of the "State share" of projects under the Marchiselli Program is administered through the New York State Office of the Comptroller ("State Comptroller"); and

WHEREAS, Highway Law §80-b authorizes the funding of eligible costs of Federal aid Municipal/Sponsor streets and highway projects using State-aid and Federal aid; and

WHEREAS, project eligibility for Marchiselli Program funds is determined by NYSDOT; and

WHEREAS, pursuant to authorizations therefore, NYSDOT and the Municipality/Sponsor are desirous of progressing the Project under the Federal aid and, if applicable, Marchiselli-aid Programs; and

WHEREAS, The Legislative Body of the Municipality/Sponsor by Resolution No. _____ adopted at meeting held on _____ approved the Project, the Municipality/Sponsor's entry into this Agreement, has appropriated necessary funds in connection with any applicable Municipal/Sponsor Deposit identified in applicable Schedules A and has further authorized the _____ of the Municipality/Sponsor to execute this Agreement and the applicable Schedule A on behalf of the Municipality/Sponsor and a copy of such Resolution is attached to and made a part of this Agreement (where New York City is the Municipality/Sponsor, such resolution is not required).

NOW, THEREFORE, the parties agree as follows:

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

- Agreement Form - this document titled "Federal aid Local Project Agreement";
- Schedule "A" - Description of Project Phase, Funding and Deposit Requirements;
- Schedule "B" - Phases, Subphase/Tasks, and Allocation of Responsibility
- Appendix "A" - New York State Required Contract Provisions
- Appendix "A-1" - Supplemental Title VI Provisions (Civil Rights Act)
- Appendix "B" - U.S. Government Required Clauses (Only required for agreements with federal funding)
- Municipal/Sponsor Resolution(s) - duly adopted Municipal/Sponsor resolution authorizing the appropriate Municipal/Sponsor official to execute this Agreement on behalf of the Municipality/Sponsor and appropriating the funding required therefore. (Where New York City is the Municipality/Sponsor, such resolution is not required).

2. *General Description of Work and Responsibility for Administration and Performance.* Subject to the allocations of responsibility for administration and performance thereof as shown in Schedule B (attached), the work of the Project may consist generally of the categories of work marked and described in Schedule B for the scope and phase in effect according to Schedule A or one or more Supplemental Schedule(s) A as may hereafter be executed and approved by the parties hereto as required for a State contract, and any additions or deletions made thereto by NYSDOT subsequent to the development of such Schedule(s) A for the purposes of conforming to New York State or to Federal Highway Administration requirements.

MUNICIPALITY/SPONSOR: City of BinghamtonPROJECT ID NUMBER: 9009.36 BIN: NA

CFDA NUMBER: 20.205

PHASE: PER SCHEDULES A

The Municipality/Sponsor understands that funding is contingent upon the Municipality/Sponsor's compliance with the applicable requirements of the "Procedures for Locally Administered Federal aid Projects" (available through NYSDOT's web site at <https://www.dot.ny.gov/plafap>, and as such may be amended from time to time.

3. *Municipal/Sponsor Deposit.* Where the work is performed by consultant or construction contract entered into with NYSDOT, or by NYSDOT forces, and unless the total non-Federal share of the Project phase is under \$5,000, the Municipality/Sponsor shall deposit with the State Comptroller, prior to the award of NYSDOT's contract or NYSDOT's performance of work by its own forces, the full amount of the non-Federal share of the Project costs due in accordance with Schedule A.

4. *Payment or Reimbursement of Costs.* For work performed by NYSDOT, NYSDOT will directly apply Federal aid and the required Municipality/Sponsor Deposit for the non-Federally aided portion, and, if applicable, shall request State Comptroller funding of Marchiselli aid to the Municipality/Sponsor as described below. For work performed by or through the Municipality/Sponsor, NYSDOT will reimburse the Municipality/Sponsor with Federal aid and, if applicable, Marchiselli aid as described below. NYSDOT will make reimbursements periodically upon request and certification by the Sponsor. The frequency of billing must be in conformance with that stipulated in the *NYSDOT Standard Specifications; Construction and Materials (section 109-06, Contract Payments)*. NYSDOT recommends that bills not be submitted more frequently than monthly for a typical project. In all cases, bills must be submitted at least once every six months.

4.1 *Federal aid.* NYSDOT will administer Federal funds for the benefit of the Municipality/Sponsor for the Federal share and will fund the applicable percentage designated in Schedule A of Federal aid participating costs incurred in connection with the work covered by this Agreement, subject to the limitations set forth on Schedule A. For work performed by or through the Municipality/Sponsor, NYSDOT will reimburse Federal aid-eligible expenditures in accordance with NYSDOT policy and procedures.

4.1.1 *Participating Items.* NYSDOT shall apply Federal funds only for that work and those items that are eligible for Federal participation under Title 23 of U.S. Code, as amended, that requires Federal aid eligible projects to be on the Federal aid Highway System ("FAHS"), except for bridge and safety projects that can be off the FAHS. Included among the Federal participating items are the actual cost of employee personal services, and leave and fringe benefit additives. Other participating costs include materials and supplies, equipment use charges or other Federal Participating costs directly identifiable with the eligible project.

4.2 *Marchiselli Aid (if applicable).* NYSDOT will request State Comptroller reimbursement to the Municipality of the upset amount and designated percentage in Schedule A of the non-overmatched non-Federal share of Federal participating cost, (the "State share"), incurred in connection with the work covered by this Agreement, subject to the limitations set forth on Schedule A. Not all Federal aid-eligible participating costs are eligible for Marchiselli aid. Only "Eligible Project Costs" (as defined in Marchiselli Program instructions issued by NYSDOT) incurred after April 1, 1991 are reimbursable.

MUNICIPALITY/SPONSOR: City of Binghamton

PROJECT ID NUMBER: 9009.36 BIN: NA

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PHASE: PER SCHEDULES A

4.2.1 *Marchiselli Eligible Project Costs.* To be eligible for Marchiselli Aid, Project costs must: (a) be eligible for Federal participation as described under §4.1; (b) be for work which, when completed, has a certifiable service life of at least 10 years; and (c) be for a work type that relates directly and exclusively to a municipally-owned highway, bridge or highway-railroad crossing off the State Highway System.

4.3 In no event shall this Agreement create any obligation to the Municipality/Sponsor for funding or reimbursement of any amount in excess of:

- (a) the amount stated in Schedule A for the Federal Share; or
- (b) the amount stated in Schedule A as the State (Marchiselli) share or the amount stated in the Comprehensive List, whichever is lower.

4.4 All items included by the Municipality/Sponsor in the record of costs shall be in conformity with accounting procedures acceptable to NYSDOT and the FHWA. Such items shall be subject to audit by the State, the federal government or their representatives.

4.5 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 Municipality/Sponsor provided for in sections 4.1 and 4.2 above may be reduced by NYSDOT by the amounts thereof in excess of the Municipality/Sponsor Deposit available for such payment to NYSDOT.

5. *Supplemental Agreements and Supplemental Schedule(s) A.* Supplemental Agreements or Supplemental Schedule(s) A may be entered into by the parties, and must be executed and approved in the manner required for a State contract. A Supplemental Schedule A is defined as a Supplemental Agreement which revises only the Schedule A of a prior Agreement or Supplemental Agreement. In the event Project cost estimates increase over the amounts provided for in Schedule A, no additional reimbursement shall be due to the Municipality/Sponsor unless the parties enter into a Supplemental Agreement or Supplemental Schedule A for reimbursement of additional Eligible Project Costs.

6. *State Recovery of Ineligible Reimbursements.* NYSDOT shall be entitled to recover from the Municipality/Sponsor any monies paid to the Municipality/Sponsor pursuant to this Agreement which are subsequently determined to be ineligible for Federal aid or Marchiselli Aid hereunder.

7. *Loss of Federal Participation.* In the event the Municipality/Sponsor withdraws its approval of the project, suspends or delays work on the Project or takes other action that results in the loss of Federal participation for the costs incurred pursuant to this Agreement, the Municipality/Sponsor shall refund to the State all reimbursements received from the State, and shall reimburse the State for 100% of all preliminary engineering and right-of-way incidental costs incurred by NYSDOT. The State may offset any other State or Federal aid due to the Municipality/Sponsor by such amount and apply such offset to satisfy such refund.

8. *Municipal/Sponsor Liability.*

8.1 If the Municipality/Sponsor 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 Municipality/Sponsor, its officers, agents, servants or employees, contractors, subcontractors or others in connection therewith. The Municipality/Sponsor specifically agrees that its agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

8.2 The Municipality/Sponsor shall indemnify and save harmless the State for all damages and costs arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Municipality/Sponsor 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 Municipality/Sponsor's failure to meet professional standards and resulting in obvious or patent errors in the progression of its work.

8.3 The Municipality/Sponsor shall at all times during the Contract term remain responsible. The Municipality/Sponsor agrees, if requested by the Commissioner of Transportation or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

8.4 The Commissioner of Transportation or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Municipality/Sponsor. In the event of such suspension, the Municipality/Sponsor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Municipality/Sponsor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Transportation or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

8.5 Upon written notice to the Municipality/Sponsor, and a reasonable opportunity to be heard with appropriate Department of Transportation officials or staff, the Contract may be terminated by the Commissioner of Transportation or his or her designee at the Municipality's/Sponsor's expense where the Municipality/Sponsor is determined by the Commissioner of Transportation or his or her designee to be non-responsible. In such event, the Commissioner of Transportation or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

9. *Maintenance.* The Municipality/Sponsor shall be responsible for the maintenance of the project at the sole cost and expense of the Municipality/Sponsor. If the Municipality/Sponsor intends to have the project maintained by another, any necessary maintenance agreement will be executed and submitted to NYSDOT before construction of the Project is begun. Upon its completion, the Municipality/Sponsor will operate and maintain the Project at no expense to NYSDOT; and during the useful life of the Project, the Municipality/Sponsor shall not discontinue operation and maintenance of the Project, nor dispose of the Project, unless it receives prior written approval to do so from NYSDOT.

9.1 The Municipality/Sponsor may request such approved disposition from NYSDOT where the Municipality/Sponsor either causes the purchaser or transferee to assume the Municipality/Sponsor's continuing obligations under this Agreement, or agrees immediately to reimburse NYSDOT for the pro-rata share of the funds received for the project, plus any direct costs incurred by NYSDOT, over the remaining useful life of the Project.

9.2 If a Municipality/Sponsor fails to obtain prior written approval from NYSDOT before discontinuing operation and maintenance of the Project or before disposing of the project, in addition to the costs provided, above in 9.1, Municipality/Sponsor shall be liable for liquidated damages for indirect costs incurred by NYSDOT in the amount of 5% of the total Federal and non-Federal funding provided through NYSDOT.

9.3 For NYSDOT-administered projects, NYSDOT is responsible for maintenance only during the NYSDOT administered construction phase. Upon completion of the construction phase, the Municipality/Sponsor's maintenance obligations start or resume.

10. *Independent Contractor.* The officers and employees of the Municipality/Sponsor, in accordance with the status of the Municipality/Sponsor as an independent contractor, covenant and agree that they will conduct themselves consistent with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the State by reason hereof, and that they will not by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State, including, but not limited to, Workers Compensation coverage, Unemployment Insurance benefits, Social Security or Retirement membership or credit.

11. *Contract Executory; Required Federal Authorization.* It is understood by and between the parties hereto that this Agreement shall be deemed executory only to the extent of the monies available to the State and no liability on account thereof shall be incurred by the State beyond monies available for the purposes hereof. No phase of work for the project shall be commenced unless and until NYSDOT receives authorization from the Federal government.

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

MUNICIPALITY/SPONSOR: City of Binghamton

PROJECT ID NUMBER: 9009.36 BIN: NA

CFDA NUMBER: 20.205

PHASE: PER SCHEDULES A

13. *Term of Agreement.* As to the Project and phase(s) described in the Schedule A executed herewith, the term of this Agreement shall begin on the date of this Agreement as first above written. This Agreement shall remain in effect so long as Federal aid and Marchiselli-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 cause a lapse in this Agreement provided any necessary Federal or State appropriations or other funding authorizations therefore are eventually enacted.

14. *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 Municipality/Sponsor assert, make or join in any claim or demand against NYSDOT, its officers or employees, for any damages or other relief based on any alleged failure of NYSDOT, its officers or employees, to undertake or perform any act, or for undertaking or performing any act, which is not specifically required or prohibited by this Agreement.

15. *Offset Rights.* In addition to any and all set-off rights provided to the State in the attached and incorporated Appendix A, Standard Clauses for New York Contracts, NYSDOT shall be entitled to recover and offset from the Municipality/Sponsor any ineligible reimbursements and any direct or indirect costs to the State as to paragraph 6 above, as well as any direct or indirect costs incurred by the State for any breach of the term of this agreement, including, but not limited to, the useful life requirements in paragraph 9 above. At its sole discretion NYSDOT shall have the option to permanently withhold and offset such direct and indirect cost against any monies due to the Municipality/Sponsor from the State of New York for any other reason, from any other source, including but not limited to, any other Federal or State Local Project Funding, and/or any Consolidated Highway and Local Street Improvement Program (CHIPS) funds

16. *Reporting Requirements.* The Municipality/Sponsor agrees to comply with and submit to NYSDOT in a timely manner all applicable reports required under the provisions of this Agreement and the Procedures for Locally Administered Federal aid Projects manual and in accordance with current Federal and State laws, rules, and regulations.

17. *Notice Requirements.*

- 17.1 All notices permitted or required hereunder shall be in writing and shall be transmitted:
- (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.

MUNICIPALITY/SPONSOR: City of Binghamton

PROJECT ID NUMBER: 9009.36 BIN: NA

CFDA NUMBER: 20.205

PHASE: PER SCHEDULES A

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

New York State Department of Transportation (NYSDOT)

Name: Linda Halaburka

Title: Senior Capital Program Analyst

Address: 44 Hawley Street 14th Floor Binghamton, New York 13901

Telephone Number: 607-721-8274

Facsimile Number: 607-721-8267

E-Mail Address: Linda.Halaburka@dot.ny.gov

[Municipality/Sponsor] City of Binghamton

Name: Terry Kellogg, P.E.

Title: Commissioner of Public Works

Address: 38 Hawley Street Binghamton, New York 13901

Telephone Number: 607-772-7021

Facsimile Number: 607-772-7023

E-Mail Address: tjkellogg@cityofbinghamton.com

17.2 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. 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.

18. *Electronic Contract Payments.* Municipality/Sponsor shall provide complete and accurate supporting documentation of eligible local expenditures as required by this Agreement, NYSDOT and the State Comptroller. Following NYSDOT approval of such supporting documentation, payment for invoices submitted by the Municipality/Sponsor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The contracting local Municipality/Sponsor shall comply with the State Comptroller's procedures for all Federal and applicable State Aid to authorize electronic payments. Authorization forms are available on the State Comptroller's website at www.osc.state.ny.us/epay/index.htm or by email at epunit@osc.state.ny.us. When applicable to State Marchiselli and other State reimbursement by the State Comptroller, registration forms and instructions can be found at the NYSDOT [Electronic Payment Guidelines](#) website.

MUNICIPALITY/SPONSOR: City of Binghamton

PROJECT ID NUMBER: 9009.36 BIN: NA

CFDA NUMBER: 20.205

PHASE: PER SCHEDULES A

The Municipality/Sponsor herein acknowledges that it will not receive payment on any invoices submitted under this agreement if it does not comply with the applicable State Comptroller and/or NYS State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

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

19.1 Title 49 of the Code of Federal Regulations Part 26 (49 CFR 26), *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*; Title 23 Code of Federal Regulations Part 230 (23 CFR 230), *External Programs*; and, Title 41 of the Code of Federal Regulations Part 60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, including the requirements thereunder related to utilization goals for contracting opportunities for disadvantaged business enterprises (DBEs) and equal employment opportunity.

19.1.1 If the Municipality/Sponsor fails to monitor and administer contracts funded in whole or in part in accordance with Federal requirements, the Municipality/Sponsor will not be reimbursed for ineligible activities within the affected contracts. The Municipality/Sponsor must ensure that the prime contractor has a Disadvantaged Business Enterprise (DBE) Utilization Plan and complies with such plan. If, without prior written approval by NYSDOT, the Municipality/Sponsor's contractors and subcontractors fail to complete work for the project as proposed in the DBE Schedule of Utilization, NYSDOT at its discretion may (1) cancel, terminate or suspend this agreement or such portion of this agreement or (2) assess liquidated damages in an amount of up to 20% of the pro rata share of the Municipality/Sponsor's contracts and subcontracts funded in whole or in part by this agreement for which contract goals have been established.

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

20. *Compliance with Procedural Requirements.* The Municipality/Sponsor understands that funding is contingent upon the Municipality/Sponsor's compliance with the applicable requirements of the Procedures for Locally Administered Federal Aid Projects (PLAFAP) manual, which, as such, may be amended from time to time.

Locally administered Federal aid transportation projects must be constructed in accordance with the current version of *NYSDOT Standard Specifications; Construction and Materials*, including any and all modifications to the Standard Specifications issued by the Engineering Information Issuance System, and NYSDOT-approved Special Specifications for general use. (Cities with a population of 3 million or more may pursue approval of their own construction specifications and procedures on a project by project basis).

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

MUNICIPALITY/SPONSOR:

MUNICIPALITY/SPONSOR ATTORNEY:

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

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

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

Notary Public

APPROVED FOR NYSDOT:

APPROVED AS TO FORM:
STATE OF NEW YORK ATTORNEY GENERAL

By: _____
For Commissioner of Transportation

By: _____
Assistant Attorney General

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

COMPTROLLER'S APPROVAL:

Date: _____

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

**SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements
 NYSDOT/ State-Local Agreement - Schedule A for PIN 9009.36**

OSC Municipal Contract #: <u>D035014</u>	Contract Start Date: <u>5/26/2015</u> (mm/dd/yyyy)	Contract End Date: <u>5/25/2020</u> (mm/dd/yyyy) <input type="checkbox"/> Check, if date changed from the last Schedule A
--	---	---

Purpose: Original Standard Agreement Supplemental Schedule A No.

Agreement Type: Locally Administered Municipality/Sponsor (Contract Payee): City of Binghamton
 State Administered 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.*

<input type="checkbox"/> Municipality:	% of Cost share
<input type="checkbox"/> Municipality:	% of Cost share
<input type="checkbox"/> Municipality:	% of Cost share

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

Work Type: OTHER (See Footnotes) **County (If different from Municipality):** Broome

Marchiselli Eligible Yes No *(Check, if Project Description has changed from last Schedule A):*

Project Description: Binghamton: State Street Phase I Pedestrian and Streetscape Improvements (Transportation Alternatives Program 2014); City of Binghamton; Broome County ...continued in footnotes

Marchiselli Allocations Approved FOR ALL PHASES *To compute Total Costs in the last row and column, right click in each field and select "Update Field."*

<i>Check box to indicate change from last Schedule A</i>	State Fiscal Year(s)	Project Phase			TOTAL
		PE/Design	ROW (RI & RA)	Construction/CI/CS	
<input type="checkbox"/>	Cumulative total for all prior SFYs	\$	\$	\$	\$ 0.00
<input type="checkbox"/>	Current SFY	\$	\$	\$	\$ 0.00
Authorized Allocations to Date		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

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." To compute Total Current Costs in the last row, right click in each field and select "Update Field."*

PIN Fiscal Share	"Current" or "Old" entry indicator	Federal Funding Program	Total Costs	FEDERAL Participating Share and Percentage	STATE MARCHISELLI Match	LOCAL Matching Share	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
	Current		\$	\$	\$	\$	\$
	Old		\$	\$	\$	\$	\$
	Current		\$	\$	\$	\$	\$
	Old		\$	\$	\$	\$	\$
	Current		\$	\$	\$	\$	\$
	Old		\$	\$	\$	\$	\$
	Current		\$	\$	\$	\$	\$
	Old		\$	\$	\$	\$	\$
	Current		\$	\$	\$	\$	\$
	Old		\$	\$	\$	\$	\$
TOTAL CURRENT COSTS:			\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

NYSDOT/State-Local Agreement – Schedule A

B. 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." To compute Total Current Costs in last row, right click in each field and select "Update Field."

Other PIN Fiscal Shares	'Current' or 'Old' entry indicator	Funding Source	TOTAL	Other FEDERAL	Other STATE	Other LOCAL
9009.36.121	Current	TAP	\$61,534.00	\$47,997.00	\$0.00	\$13,537.00
	Old		\$	\$	\$	\$
	Current		\$	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$	\$	\$	\$
	Old		\$	\$	\$	\$
	Current		\$	\$	\$	\$
	Old		\$	\$	\$	\$
TOTAL CURRENT COSTS:			\$61,534.00	\$47,997.00	\$ 0.00	\$13,537.00

C. Total Local Deposit(s) Required for State Administered Projects:	\$0.00
--	--------

D. Total Project Costs To compute Total Costs in the last column, right click in the field and select "Update Field."

Total FEDERAL Cost	Total STATE MARCHISELLI Cost	Total Other STATE Cost	Total LOCAL Cost	Total Costs (all sources)
\$47,997.00	\$0.00	\$0.00	\$13,537.00	\$61,534.00

E. Point of Contact for Questions Regarding this Schedule A (Must be completed)	Name: <u>Linda Halaburka</u> Phone No: <u>607-721-8274</u>
--	---

See Agreement (or Supplemental Agreement Cover) for required contract signatures.

NYS DOT/State-Local Agreement – Schedule A

Footnotes: (See [LPP](#)'s website for link to sample footnotes)

- Project Description continued: The project would extend from the Susquehanna Street exit and entry points, west side and east side respectively, of the State Street Bridge to the Hawley Street/State Street intersection. The project length is approximately 900 feet in a northerly direction. The project improvements scheduled are new bike lanes, Americans with Disabilities Act compliant curb modifications, replacement of outdated lighting, tree plantings, enhanced landscaping, pavement overlay and re-striping. The City of Binghamton will also seek cooperation from the State and County to remove the tri-party owned unusable pedestrian bridge connecting City Hall and the student housing development located at 20 Hawley Street.
- Work Type = Pedestrian and Streetscape Improvements (Transportation Alternatives Program 2014).
- PIN 9009.36.121 is authorized for Preliminary Design Phases 1 - 4 only.
- The actual Federal participation percentage is 78% and the Local participation percentage is 22%.
-
-
-
-
-
-
-

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

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

A1. Preliminary Engineering ("PE") Phase

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

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
11. Prepare demolition contracts, utility relocation plans/contracts, and any other plans and/or contract documents required to advance, separate, any portions of the project which may be more appropriately progressed separately and independently.	<input type="checkbox"/>	<input type="checkbox"/>
12. Compile PS&E package, including all plans, proposals, specifications, estimates, notes, special contract requirements, and any other contract documents necessary to advance the project to construction.	<input type="checkbox"/>	<input type="checkbox"/>
13. Conduct any required soils and other geological investigations.	<input type="checkbox"/>	<input type="checkbox"/>
14. Obtain utility information, including identifying the locations and types of utilities within the project area, the ownership of these utilities, and prepare utility relocations plans and agreements, including completion of Form HC-140, titled Preliminary Utility Work Agreement.	<input type="checkbox"/>	<input type="checkbox"/>
15. Determine the need and apply for any required permits, including U.S. Coast Guard, U.S. Army Corps of Engineers, Wetlands (including identification and delineation of wetlands), SPDES, NYSDOT Highway Work Permits, and any permits or other approvals required to comply with local laws, such as zoning ordinances, historic districts, tax assessment and special districts.	<input type="checkbox"/>	<input type="checkbox"/>
16. Prepare and execute any required agreements, including:	<input type="checkbox"/>	<input type="checkbox"/>
- Railroad force account		
- Maintenance agreements for sidewalks, lighting, signals, betterments		
- Betterment Agreements		
- Utility Work Agreements for any necessary Utility Relocations of Privately owned Utilities		
17. Provide overall supervision/oversight of design to assure conformity with Federal and State design standards or conditions, including final approval of PS&E (Contract Bid Documents) by NYSDOT.	<input type="checkbox"/>	<input type="checkbox"/>
18. The American Recovery and Reinvestment Act (ARRA) projects require additional extensive reporting. The Municipality/Sponsor must include in its construction contract the additional ARRA reporting requirements related to the weekly employment during Construction or as modified by the Federal Highway Administration (FHWA).	<input type="checkbox"/>	<input type="checkbox"/>
19. Pursuant to Title IX, Section 902 of the ARRA, the U.S. DOT Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any records of its subcontractors, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors regarding such transactions.	<input type="checkbox"/>	<input type="checkbox"/>

A2. Right-of-Way (ROW) Incidentals

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>
-----------------------------	---------------------------------------

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

- | | | |
|---|--------------------------|--------------------------|
| 1. Prepare ARM or other mapping, showing preliminary taking lines. | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. ROW mapping and any necessary ROW relocation plans. | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Obtain abstracts of title and certify those having an interest in ROW to be acquired. | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Secure Appraisals. | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Perform Appraisal Review and establish an amount representing just compensation. | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Determination of exemption from public hearing that is otherwise required by the Eminent Domain Procedure Law, including <i>de minimis</i> determination, as may be applicable. If NYSDOT is responsible for acquiring the right-of-way, this determination may be performed by NYSDOT only if NYSDOT is responsible for the Preliminary Engineering Phase under Phase A1 of this Schedule B. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedures Law, including the provision of stenographic services, preparation and distribution of transcripts, and response to issues raised at such meetings. | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. The American Recovery and Reinvestment Act (ARRA) projects require additional extensive reporting. The Municipality/Sponsor must include in its construction contract the additional ARRA reporting requirements related to the weekly employment during Construction or as modified by the Federal Highway Administration (FHWA). | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Pursuant to Title IX, Section 902 of the ARRA, the U.S. DOT Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any records of its subcontractors, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors regarding such transactions. | <input type="checkbox"/> | <input type="checkbox"/> |

B. Right-of-Way (ROW) Acquisition

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

- | | | |
|---|--------------------------|--------------------------|
| 1. Perform all Right-of-Way (ROW) Acquisition work, including negotiations with property owners, acquisition of properties and accompanying legal work, payments to and/or deposits on behalf of property owners; Prepare, publish, and pay for any required legal notices; and all other actions necessary to secure title to, possession of, and entry to required properties. If NYSDOT is to acquire property, including property described as an uneconomic remainder, on behalf of the Municipality/Sponsor, the Municipality/Sponsor agrees to accept and take title to any and all permanent property rights so acquired which form a part of the completed Project. | <input type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|

<u>Phase/Sub-phase/Task</u>	<u>Responsibility: NYSDOT Sponsor</u>	
2. Provide required relocation assistance, including payment of moving expenses, replacement supplements, mortgage interest differentials, closing costs, mortgage prepayment fees.	<input type="checkbox"/>	<input type="checkbox"/>
3. Conduct eminent domain proceedings, court and any other legal actions required to acquire properties.	<input type="checkbox"/>	<input type="checkbox"/>
4. Monitor all ROW Acquisition work and activities, including review and processing of payments of property owners.	<input type="checkbox"/>	<input type="checkbox"/>
5. Provide official certification that all right-of-way required for the construction has been acquired in compliance with applicable Federal, State or Local requirements and is available for use and/or making projections of when such property(ies) will be available if such properties are not in hand at the time of contract award.	<input type="checkbox"/>	<input type="checkbox"/>
6. Conduct any property management activities, including establishment and collecting rents, building maintenance and repairs, and any other activities necessary to sustain properties and/or tenants until the sites are vacated, demolished, or otherwise used for the construction project.	<input type="checkbox"/>	<input type="checkbox"/>
7. Subsequent to completion of the Project, conduct ongoing property management activities in a manner consistent with applicable Federal, State and Local requirements including, as applicable, the development of any ancillary uses, establishment and collection of rent, property maintenance and any other related activities.	<input type="checkbox"/>	<input type="checkbox"/>
8. The American Recovery and Reinvestment Act (ARRA) projects require additional extensive reporting. The Municipality/Sponsor must include in its construction contract the additional ARRA reporting requirements related to the weekly employment during Construction or as modified by the Federal Highway Administration (FHWA).	<input type="checkbox"/>	<input type="checkbox"/>
9. Pursuant to Title IX, Section 902 of the ARRA, the U.S. DOT Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any records of its subcontractors, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors regarding such transactions.	<input type="checkbox"/>	<input type="checkbox"/>

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

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

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

- | | | |
|---|--------------------------|--------------------------|
| 4. Compile and submit Contract Award Documentation Package. | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Review/approve any proposed subcontractors, vendors, or suppliers. | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Conduct and control all construction activities in accordance with the plans and proposal for the project. Maintain accurate, up-to-date project records and files, including all diaries and logs, to provide a detailed chronology of project construction activities. Procure or provide all materials, supplies and labor for the performance of the work on the project, and insure that the proper materials, equipment, human resources, methods and procedures are used. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7a. For non-NHS or non-State Highway System Projects: Test and accept materials, including review and approval for any requests for substitutions. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7b. For NHS or State Highway System Projects: Inspection and approval of materials such as bituminous concrete, Portland cement concrete, structural steel, concrete structural elements and/or their components to be used in a federal aid project will be performed by, and according to the requirements of NYSDOT. The Municipality/Sponsor shall make or require provision for such materials inspection in any contract or subcontract that includes materials that are subject to inspection and approval in accordance with the applicable NYSDOT design and construction standards associated with the federal aid project. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7c. For projects that fall under both 7a and 7b above, check boxes for each. | | |
| 8. Design and/or re-design the project or any portion of the project that may be required because of conditions encountered during construction. | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Administer construction contract, including the review and approval of all contractor requests for payment, orders-on-contract, force account work, extensions of time, exceptions to the plans and specifications, substitutions or equivalents, and special specifications. | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. The American Recovery and Reinvestment Act (ARRA) projects require additional extensive reporting. The Municipality/Sponsor must include in its construction contract the additional ARRA reporting requirements related to the weekly employment during Construction or as modified by the Federal Highway Administration (FHWA). | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Pursuant to Title IX, Section 902 of the ARRA, the U.S. DOT Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any records of its subcontractors, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors regarding such transactions. | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Review and approve all shop drawings, fabrication details, and other details of structural work. | <input type="checkbox"/> | <input type="checkbox"/> |

Phase/Sub-phase/Task

Responsibility: NYSDOT Sponsor

- 13. Administer all construction contract claims, disputes or litigation.
- 14. Perform final inspection of the complete work to determine and verify final quantities, prices, and compliance with plans specifications, and such other construction engineering supervision and inspection work necessary to conform to Municipal, State and FHWA requirements, including the final acceptance of the project by NYSDOT.
- 15. Pursuant to Federal Regulation 49 CFR 18.42(e)(1) The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

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

January 2014

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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 \$10,000, 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 Section 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 because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. 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 (2NYCRR 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 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 section. 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

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: mwbcertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 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) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

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 Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 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 Section 5-a, if the contractor fails to make the certification required by Tax Law Section 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:

<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

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.

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

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

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

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

APPENDIX B
REQUIREMENTS FOR FEDERALLY-AIDED TRANSPORTATION PROJECTS
(March 2013)

There is a substantial body of requirements attached to the use of Federal highway or transportation aid. These requirements create or overlay processes, procedures, documentation requirements, authorizations, approvals and certifications that may be substantially greater or different from those that are not funded with Federal-aid and proceed under applicable State and local laws, customs and practices. Under Title 23 of the United States Code, the New York State Department of Transportation (NYSDOT) is responsible for the administration of transportation projects in New York State to which NYSDOT provides Federal highway or transportation-related aid. Through this Agreement, which provides or is associated with such funding, NYSDOT delegates various elements of project and funding administration as described elsewhere in this Agreement. In undertaking a Federally aided project, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement with Federal-aid funding or project administration agrees to proceed in compliance with all the applicable Federal-aid requirements.

NYSDOT, in cooperation with FHWA, has assembled the body of Federal-aid requirements, procedures and practices in its "Procedures for Locally Administered Federal-Aid Projects" (available through NYSDOT's web site at: www.dot.ny.gov/plafap). In addition, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement for Federal-aid funding or project administration that enters into Federally aided project construction contracts is required to physically incorporate into all its Federally aided construction contracts and subcontracts there under the provisions that are contained in Form FHWA-1273 (available from NYSDOT or electronically at: www.fhwa.dot.gov/programadmin/contracts/1273.htm).

In addition to the referenced requirements, the attention of Municipality/Sponsor hereunder is directed to the following requirements and information:

NON DISCRIMINATION/EEO/DBE REQUIREMENTS

The Municipality/Sponsor and its contractors agree to comply with Executive Order 11246, entitled "Equal Employment Opportunity" and United States Department of Transportation (USDOT) regulations (49 CFR Parts 21, 23, 25, 26 and 27) and the following:

1. **NON DISCRIMINATION.** No person shall, on the ground of race, color, creed, national origin, sex, age or handicap, be excluded from participation in, or denied the benefits of, or be subject to, discrimination under the Project funded through this Agreement.
2. **EQUAL EMPLOYMENT OPPORTUNITY.** In connection with the execution of this Agreement, the Municipality/Sponsor's contractors or subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, color, sex or national origin. Such contractors shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin or age. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

3. **DISADVANTAGED BUSINESS ENTERPRISES.** In connection with the performance of this Agreement, the Municipality/Sponsor shall cause its contractors to cooperate with the State in meeting its commitments and goals with regard to the utilization of Disadvantaged Business Enterprises (DBEs) and will use its best efforts to ensure that DBEs will have opportunity to compete for subcontract work under this Agreement. Also, in this connection the Municipality or Municipality/Sponsor shall cause its contractors to undertake such actions as may be necessary to comply with 49 CFR Part 26.

As a sub-recipient under 49 CFR Part 26.13, the Municipality/Sponsor hereby makes the following assurance.

The Municipality/Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any United States Department of Transportation (USDOT)-assisted contract or in the administration of its Disadvantaged Business Enterprise (DBE) program or the requirements of 49 CFR Part 26. The Municipality/Sponsor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of the United States Department of Transportation-assisted contracts. The New York State Department of Transportation's DBE program, as required by 49 CFR Part 26 and as approved by the United States Department of Transportation, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under part 26 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.).

FEDERAL SINGLE AUDIT REQUIREMENTS

Non-Federal entities that expend \$500,000 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". 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 \$500,000 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 agency¹ 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.

¹ The designated cognizant agency for audit shall be the federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB changes it.

THE CATALOG OF FEDERAL DOMESTIC ASSISTANCE

The Catalog of Federal Domestic Assistance (CFDA²), is an on-line database of all Federally-aided programs available to State and local governments (including the District of Columbia); Federally recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi-public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals.

THE CFDA IDENTIFICATION NUMBER

OMB Circular A-133 requires all Federal-aid recipients to identify and account for awards and expenditures by CFDA Number. The Municipality/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 most commonly used CFDA number for the Federal Aid Highway Planning and Construction program is 20.205.

Additional CFDA numbers for other transportation and non-transportation related programs are:

20.215	Highway Training and Education
20.219	Recreational Trails Program
20.XXX	Highway Planning and Construction - Highways for LIFE;
20.XXX	Surface Transportation Research and Development;
20.500	Federal Transit-Capital Investment Grants
20.505	Federal Transit-Metropolitan Planning Grants
20.507	Federal Transit-Formula Grants
20.509	Formula Grants for Other Than Urbanized Areas
20.600	State and Community Highway Safety
23.003	Appalachian Development Highway System
23.008	Appalachian Local Access Roads

PROMPT PAYMENT MECHANISMS

In accordance with 49 CFR 26.29, and NY State Finance Law 139-f or NY General Municipal Law 106-b(2) as applicable:

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 7 calendar days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

(1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

(2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime

² www.cfda.gov/

contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed.

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 7 calendar days after your payment to the prime contractor.

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

SAMPLE RESOLUTIONS

SAMPLE RESOLUTION BY MUNICIPALITY
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 State Street Phase I Pedestrian and Streetscape Improvements (TAP 2014), P.I.N. 9009.36 (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 78% Federal funds and 22% non-Federal funds; and

WHEREAS, the City of Binghamton desires to advance the Project by making a commitment of 100% of the Federal and non-Federal share of the costs of the Preliminary Engineering/Design (Phases 1- 4 only) work.

NOW, THEREFORE, the Binghamton City Council, duly convened does hereby

RESOLVE, that the Binghamton City Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Binghamton City Council hereby authorizes the City of Binghamton to pay in the first instance 100% of the Federal and non-Federal share of the cost of the Preliminary Engineering/Design (Phases 1 - 4 only) work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$61,534 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 Binghamton City Council shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and it is further

RESOLVED, that the Mayor of the City of Binghamton 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 City of Binghamton 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.



Legislative Branch

RL Number:	15-110
Date Submitted:	6/11/15

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

REQUEST FOR LEGISLATION

Requests for Legislation (RLs) may be submitted to the City Clerk's Office for consideration at City Council Work Sessions. RLs generated from within City Hall departments must be submitted to the Mayor, Comptroller and Corporation Counsel for review before submission. RLs generated by citizens may be submitted directly to the City Clerk's Office.

Applicant Information

Request submitted by: Rich Perkins

Title/Department: Acting City Engineer

Contact Information: 772-7007

RL Information

Proposed Title: A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO
SUPPLEMENTAL AGREEMENT NO. 1 WITH NYSDOT... THE SOUTH WASHINGTON STREET
PEDESTRIAN BRIDGE (PIN 9753.96)

Suggested Content: TO BE DRAFTED BY CORP COUNSEL.
SEE R14-47
For Wed.

Additional Information

Does this RL concern grant funding? Yes No

If 'Yes', is the required RL Grant Worksheet attached? Yes No

Is additional information related to the RL attached? Yes No

Is RL related to previously adopted legislation? Yes No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): SEE R14-47

OFFICE USE ONLY	
Mayor:	<u>[Signature]</u>
Comptroller:	<u>[Signature]</u>
Corporation Counsel:	<u>[Signature]</u>
Finance <input checked="" type="checkbox"/>	Planning <input type="checkbox"/> MPA <input type="checkbox"/> PW/Parks <input type="checkbox"/> Employees <input type="checkbox"/> Rules/Special Studies <input type="checkbox"/>



Department of Transportation

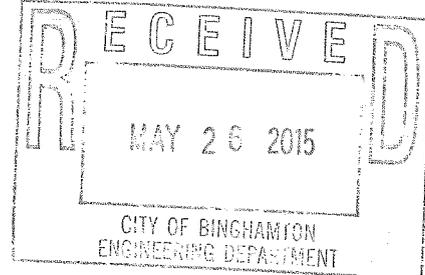
ANDREW M. CUOMO
Governor

JOAN McDONALD
Commissioner

JACK WILLIAMS, P.E.
Regional Director

May 21, 2015

Mr. Richard Perkins, P.E.
Acting City Engineer
City of Binghamton
38 Hawley Street
Binghamton, New York 13901



Dear Mr. Perkins:

**RE: PIN 9753.96, D034719, BIN 2226170
SOUTH WASHINGTON STREET PEDESTRIAN BRIDGE
CITY OF BINGHAMTON, BROOME COUNTY**

Enclosed for processing are five copies of Supplemental Agreement # 1 to Master Federal-Aid Local Project Agreement (D034719) to perform the Preliminary Engineering and Design work. The work involves repairs to the South Washington Street Pedestrian Bridge in the City of Binghamton, Broome County. This is a Locally Administered Project.

This Supplemental Agreement provides for the full 15% reimbursement of State Marchiselli funds for the Preliminary Engineering and Design work. All five copies must have original signatures and all five copies must be notarized. Please return all five copies to our Regional Office for further processing. A completed copy will be returned to you once the agreement has been fully executed. City Resolution R14-47 is attached to all five copies and no additional resolution is needed.

Please note a change regarding reimbursement of Federal and Marchiselli funds. Reimbursement of Federal funds and Marchiselli funds (if applicable) will now be made as one payment. These payments will only be as an Electronic Funds Transfer (EFT) by the Office of the State Comptroller. If you had been receiving EFT payments for your Federal reimbursements, then you will continue to receive your Federal and Marchiselli reimbursement by EFT. If you were not receiving Federal reimbursements by EFT, then you must submit an EFT Authorization Form to the Office of the State Comptroller. This form may be obtained on OSC's website at <http://www.osc.state.ny.us/epay> or on the CHIPS website at <https://www.dot.ny.gov/programs/chips>. If you had been receiving Marchiselli reimbursements by EFT, then they would have been by the New York State Thruway Authority and not the Office of the State Comptroller.

If you have any questions or need assistance in this matter, please contact Linda Halaburka in our Regional Planning and Program Management Office at (607) 721-8274.

Sincerely,

for Linda Halaburka
Pamela M. Eshbaugh, P.E.
Regional Planning & Program Manager

PME/LH
ENC

c: L. Halaburka, Region 9 Planning and Program Management Office
J. Havtur, Region 9 Planning and Program Management Office
R. Coleman, Region 9 Planning and Program Management Office
K. Ouimette, Region 9 Planning and Program Management Office
File – 975396-4
Blue



Legislative Branch

RL Number:
15-111
Date Submitted:
6/11/15

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

REQUEST FOR LEGISLATION

Requests for Legislation (RLs) may be submitted to the City Clerk's Office for consideration at City Council Work Sessions. RLs generated from within City Hall departments must be submitted to the Mayor, Comptroller and Corporation Counsel for review before submission. RLs generated by citizens may be submitted directly to the City Clerk's Office.

Applicant Information

Request submitted by: Rich Perkins
Title/Department: Acting City Engineer
Contact Information: 772-7007

RL Information

Proposed Title: A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO SUPPLEMENTAL AGREEMENT NO. 2 WITH NYSDOT... THE EXCHANGE STREET BRIDGE REHABILITATION PROJECT (PIN 9753.10)

Suggested Content: TO BE DRAFTED BY CORP COUNSEL.
SEE R14-73

For Wed.

Additional Information

- Does this RL concern grant funding? Yes No
- If 'Yes', is the required RL Grant Worksheet attached? Yes No
- Is additional information related to the RL attached? Yes No
- Is RL related to previously adopted legislation? Yes No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): SEE R14-73

OFFICE USE ONLY					
Mayor:					
Comptroller:					
Corporation Counsel:					
Finance <input checked="" type="checkbox"/>	Planning <input type="checkbox"/>	MPA <input type="checkbox"/>	PW/Parks <input type="checkbox"/>	Employees <input type="checkbox"/>	Rules/Special Studies <input type="checkbox"/>



Department of Transportation

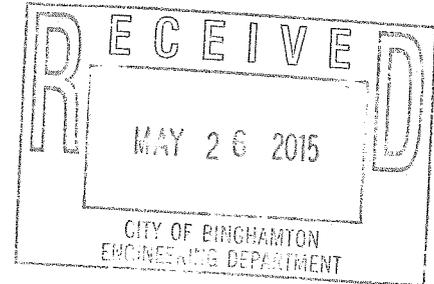
ANDREW M. CUOMO
Governor

JOAN McDONALD
Commissioner

JACK WILLIAMS, P.E.
Regional Director

May 21, 2015

Mr. Richard Perkins, P.E.
Acting City Engineer
City of Binghamton
38 Hawley Street
Binghamton, New York 13901



Dear Mr. Perkins:

**RE: PIN 9753.10, BIN 2226160, D032740
EXCHANGE STREET BRIDGE OVER SUSQUEHANNA RIVER
CITY OF BINGHAMTON, BROOME COUNTY**

Enclosed for processing are five copies of Supplemental Agreement # 2 to Master Federal-Aid Local Project Agreement (D032740) to perform the Preliminary Engineering/Design and Construction and Construction Supervision and Inspection work. The work involves the rehabilitation of the Exchange Street Bridge over the Susquehanna River in the City of Binghamton, Broome County. This is a Locally Administered Project.

This Supplemental Agreement provides for the full 15% reimbursement of State Marchiselli funds for the Construction and Construction Supervision and Inspection work. All five copies must have original signatures and all five copies must be notarized. Please return all five copies of the agreement to our Regional Office for further processing. A completed copy will be returned to you once the agreement has been fully executed. City Resolutions R10-86, R12-84 and R14-73 are attached to all five copies and no additional resolution is needed.

Please note a change regarding reimbursement of Federal and Marchiselli funds. Reimbursement of Federal funds and Marchiselli funds (if applicable) will now be made as one payment. These payments will only be as an Electronic Funds Transfer (EFT) by the Office of the State Comptroller. If you had been receiving EFT payments for your Federal reimbursements, then you will continue to receive your Federal and Marchiselli reimbursement by EFT. If you were not receiving Federal reimbursements by EFT, then you must submit an EFT Authorization Form to the Office of the State Comptroller. This form may be obtained on OSC's website at <http://www.osc.state.ny.us/epay> or on the CHIPS website at <https://www.dot.ny.gov/programs/chips>. If you had been receiving Marchiselli reimbursements by EFT, then they would have been by the New York State Thruway Authority and not the Office of the State Comptroller.

If you have any questions or need assistance in this matter, please contact Linda Halaburka in our Regional Planning and Program Management Office at (607) 721-8274.

Sincerely,



for

Pamela M. Eshbaugh, P.E.
Regional Planning & Program Manager

PME/LH
ENC

c: L. Halaburka, Region 9 Planning and Program Management Office
J. Havtur, Region 9 Planning and Program Management Office
R. Coleman, Region 9 Planning and Program Management Office
K. Ouimette, Region 9 Planning and Program Management Office
File – 975310-9
Blue



Legislative Branch

RL Number:
15-112
Date Submitted:
6/10/2015

City Clerk, City Hall, Binghamton, NY 13901 607-772-7005

REQUEST FOR LEGISLATION

Requests for Legislation (RLs) may be submitted to the City Clerk's Office for consideration at City Council Work Sessions. RLs generated from within City Hall departments must be submitted to the Mayor, Comptroller and Corporation Counsel for review before submission. RLs generated by citizens may be submitted directly to the City Clerk's Office.

Applicant Information

Request submitted by: Jeremy Pelletier, City Clerk

Title/Department: City Clerk's Office

Contact Information: clerk@cityofbinghamton.com

RL Information

Proposed Title: An Ordinance authorizing the acceptance of 16 Second Street and \$20,000 in lieu of property disposition

Suggested Content: Approved by E&A on June 10, 2015

Additional Information

Does this RL concern grant funding? Yes No

If 'Yes', is the required RL Grant Worksheet attached? Yes No

Is additional information related to the RL attached? Yes No

Is RL related to previously adopted legislation? Yes No

If 'Yes', please provide Permanent Ordinance/Resolution/Local Law number(s): _____

OFFICE USE ONLY					
Mayor:	_____				
Comptroller:	_____				
Corporation Counsel:	_____				
Finance <input type="checkbox"/>	Planning <input checked="" type="checkbox"/>	MPA <input type="checkbox"/>	PW/Parks <input type="checkbox"/>	Employees <input type="checkbox"/>	Rules/Special Studies <input type="checkbox"/>

Pelletier, Jeremy

From: Heather.Upah@wellsfargo.com
Sent: Monday, June 01, 2015 4:28 PM
To: Pelletier, Jeremy
Subject: RE: 16 Second Street

Hi Jeremy,

I appreciate your phone call earlier. I received approval to increase the seller concession to \$20,000. Please let me know the decision that is made at your meeting on 6/3/15 and contact me with any questions.

Thanks!

Heather Upah

REO Alternative Disposition Asset Manager
Community Development

Premiere Asset Services

Wells Fargo Home Mortgage | 1 Home Campus | Des Moines, IA 50328
MAC X2301-049
Tel 515-324-3173 | Fax 866-968-1655
Heather.Upah@wellsfargo.com

The Wells Fargo REO Community Development Team fosters relationships with key stakeholders to revitalize neighborhoods through innovative solutions and responsible property management.

This message may contain confidential and/or privileged information. If you are not the addressee or authorized to receive this for the addressee, you must not use, copy, disclose, or take any action based on this message or any information herein. If you have received this message in error, please advise the sender immediately by reply e-mail and delete this message. Thank you for your cooperation.

From: Pelletier, Jeremy [<mailto:jcpelletier@cityofbinghamton.com>]
Sent: Friday, May 29, 2015 1:54 PM
To: Upah, Heather
Subject: FW: 16 Second Street and 25 Munsell Street

Hi Heather,

Please see the information about the pre-demolition survey by the City Engineer.

Jeremy Pelletier, MPA
City Clerk
Phone: 607-772-7035
Fax: 607-772-7155
jcpelletier@cityofbinghamton.com

From: Perkins, Richard
Sent: Friday, May 29, 2015 2:48 PM

Pelletier, Jeremy

From: noel.beemer@wellsfargo.com
Sent: Friday, May 08, 2015 8:39 AM
To: Pelletier, Jeremy
Subject: Donation Property 16 SECOND ST BINGHAMTON, NY

Hi Jeremy— Per my e-mail last week. Here is another property that I wanted you to be aware of that is available for donation. This property has a 15k seller concession approved. Let me know if the city will be interested in this property. Please also let me know if you have any questions about the information below. It's a new process we are implementing with all our groups. You will only have to complete this process once. Let me know if you have any questions.

Thanks!

You are receiving this email because you expressed an interest in the Wells Fargo property donation program called CUSP (Community & Urban Stabilization Program).

Click [HERE](#) for a description of our programs on the Wells Fargo Community and Homeowner Support website.

Click [HERE](#), to apply to our program.

Please complete all of the required sections to apply to our program. If you are interested in a particular property and do not see the property under the "Property Selection" section, select option 2 and type in the address of the property you are interested in. Please keep in mind that other organizations may be applying and requesting the same property. If multiple organizations request the same property we will award it to the applicant that meets our programs requirements and completes the application process first.

The properties we have available for donation are all residential properties that are often in need of extensive rehab. We have seen thousands of these properties brought back to life by organizations like yours. Please also keep in mind that our supply of foreclosed properties available for donation varies region by region.

Feel free to contact me if you need further assistance.

Noel Beemer

Alternative Disposition Asset Manager 2 - Community Development
Wells Fargo

Wells Fargo Home Mortgage | 800 Jordan Creek Parkway | West Des Moines, IA 50328
MAC X2301-049
515-324-2517
noel.beemer@wellsfargo.com

The Wells Fargo REO Community Development Team fosters relationships with key stakeholders to revitalize neighborhoods through innovative solutions and responsible property management.

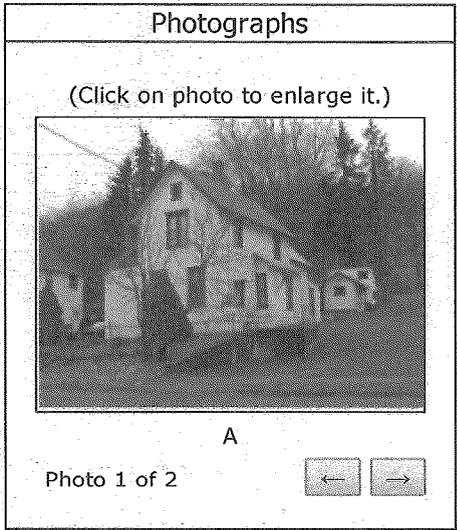
Property of Wells Fargo, this e-mail contains information that is not public knowledge and should only be used for internal corporate purposes. Disclosure of this information to anyone outside of Wells Fargo & Company is a violation of Wells Fargo's Code of Ethics and may be in violation of federal and state law.



Navigation | GIS Map | Tax Maps | ORPS Links | Help | Log In

- Residential
- Property Info
- Owner/Sales
- Inventory
- Improvements
- Tax Info
- Report
- Comparables

Municipality of City of Binghamton			
SWIS:	030200	Tax ID:	160.60-2-5
Tax Map ID / Property Data			
Status:	Active	Roll Section:	Taxable
Address:	16 Second St		
Property Class:	220 - 2 Family Res	Site Property Class:	220 - 2 Family Res
Site:	Res 1	In Ag. District:	No
Zoning Code:	-	Bldg. Style:	Old style
Neighborhood:	00610 -	School District:	Binghamton
Legal Property Description:	06-0008-051 1006710792 763516459,		
Total Acreage/Size:	50 x 115	Equalization Rate:	----
Land Assessment:	2015 - Tentative \$10,800 2014 - \$10,800 2013 - \$10,800	Total Assessment:	2015 - Tentative \$62,400 2014 - \$62,400 2013 - \$62,400
Full Market Value:	2015 - Tentative \$75,181 2014 - \$75,181 2013 - \$75,181		
Deed Book:	2294	Deed Page:	1
Grid East:	1007652	Grid North:	763655



Maps

View Tax Map

Pin Property on GIS Map

**Special Districts for 2015
(Tentative)**

No information available for the 2015 roll year.

Page 89 of 93



A

Photo 1 of 2

Photo for 160.60-2-5 in City of Binghamton

MARIO C. DiFULVIO

mariod@horizonsfcu.com • 114 East Hamton Road, Binghamton NY 13903 • (607) 722-2731

Skills

Economics and Accounting	Judgment and Decision Making
Administration and Management	Complex Problem Solving
Critical Thinking	Speaking

Experience

Horizons Federal Credit Union – Binghamton, NY **9/1990 - Present**

- * Direct, coordinate the organization's financial and budget activities to fund operations, maximize investments and increase efficiency
- * Confer with board members, organizations officials, or staff members to discuss issues, coordinate activities, or resolve problems.
- * Analyze operations to evaluate performance including staff in meeting objectives and to determine areas of potential cost reduction, service improvement, or policy change.

Director of Finance **7/1984 – 8/1990**

Lourdes Hospital – Binghamton, NY

- * Develop internal control policies, guidelines, and procedures for activities such as budget administration, cash and credit management, and accounting.
- * Coordinate and direct the financial planning, budgeting, procurement, or investment activities * Monitor and evaluate the performance of accounting and other financial staff, recommending and implementing personnel actions, such as promotions and dismissals.

Auditor

Coopers & Lybrand – Syracuse **1/1982 – 6/1984**

- * Collect and analyze data to detect deficient controls, duplicated effort, extravagance, fraud, or noncompliance with laws, regulations and management policies.
- * Prepare detailed reports on audit findings.
- * Report to management about asset utilization and audit results and recommend changes in operations and financial activities.
- * Inspect account books and accounting systems for efficiency, effectiveness, and use of accepted accounting procedures to record transactions.

Education

Course work related to MBA:

Binghamton University – Binghamton, NY

Bachelor of Science: Accounting May 1981

Rochester Institute of Technology – Rochester, NY

Additional Information

- * Currently serve as President of the Southern Tier Zoological Society Board
- * Member of the Catholic Charities Finance Committee
- * Board Member, Police Athletic League
- * Current member of the Lourdes Hospital Audit Committee

TRAFFIC BOARD MEETING 1006
MINUTES
Planning Conference Room, 4th Floor, City Hall
Thursday, May 14, 2015

Call to Order. Called to order at 10:07 a.m. by Jared Kraham, Executive Assistant to the Mayor.

Traffic Board Member Present: Jared Kraham, Executive Assistant to the Mayor; Bill Berg, Council person; Rich Perkins, Engineering; Terry Kellogg, DPW

Traffic Board Members Absent: William Yeager, Acting Chief of Police

Also Present: Dan Correll, retired BPD Officer; Cyndi Paddick, BMTS, Chuck Lucess, Leo O'Connor

Approval of Minutes. Request to approve the minutes Traffic Board Meeting 1004, held on Thursday, March 12, 2015, as amended.

Moved by B. Berg, seconded by R. Perkins

Motion carried. (Vote 4-0-1)

Ayes: B. Berg, R. Perkins, J. Kraham, T. Kellogg

Nays: None

Absent: W. Yeager

Items Considered

Old Business

Leroy Street and Oak Street Intersection. Mr. Berg reported that request for legislation will be coming from City Council.
Removed from agenda.

Mary Street and Sherwood Avenue. Ms. Marcia Huntoon of 152 Mary Street is requesting a barrier or guide rail to protect her property at the corner of Mary Street and Sherwood Avenue. She indicated that the request is based on numerous accidents and near accidents at that location. Traffic board requested additional follow-up with Ms. Huntoon. Mr. Correll reported that there were only two incidents at this location and it had nothing to do with the cars coming down the hill. The Traffic Division does not see a reason for a barricade at this location. Mr. Perkins asked why the stop signs are on Sherwood Avenue and not Mary Street when Mary Street is the more traveled route. He will take a drive to look at this location and Ms. Paddick will look into counts (in June) for this intersection as well. **Hold until Thursday, June 11, 2015 meeting.**

South Washington Street/Conklin Avenue Pedestrian Crossing. Concern was shown at the Public Information Meeting regarding the bridge work. Mr. Perkins noted the DOT would be willing to reinstall flashing lights at this location. Mr. Kraham and Ms. Paddick will look into this further. Due to Ms. Paddick's absence, this will be held until June meeting. **Hold until Thursday, June 11, 2015 meeting.**

DPW will install pedestrian signage / cone at intersection.

Moved by B. Berg, seconded by R. Perkins

Motion carried. (Vote 4-0-1)

Ayes: B. Berg, R. Perkins, J. Kraham, T. Kellogg

Nays: None

Absent: W. Yeager

New Business

224 Main St. Sidewalk relocation to accommodate new parking construction. Engineering will report back on financial situation of developer, Catholic Charities, and plans. **Hold until Thursday, June 11, 2015 meeting.**

Hayes Street A request was made by Mr. Chuck Lucess of the Conklin Ave. 1st Baptist Church to install handicapped parking spaces on this street for his elderly congregation. **Police Traffic Division looking into crosswalk issues. Hold until Thursday, June 11, 2015 meeting.**

33 Riverside Dr. A request from Leo O'Connor for an additional curb cut at his property. **Police Traffic Division looking into issue. Hold until Thursday, June 11, 2015 meeting.**

Adjournment.

Motion to adjourn at 10:55 a.m.

Moved by B. Berg, seconded by R. Perkins

Motion carried. (Vote 4-0-1)

Ayes: B. Berg, R. Perkins, J. Kraham, T. Kellogg

Nays: None

Absent: W. Yeager