

T I O G A  C O U N T Y



C O N S E R V A T I O N D I S T R I C T

## REQUEST FOR PROPOSALS

### Cover Sheet

**DATE OF THIS REQUEST:** **Wednesday January 4, 2023**

This RFP is also posted on Tioga County's website at [www.tiogacountyny.gov](http://www.tiogacountyny.gov) under Tioga County News

**TITLE:** Request for Proposals: **Tioga County NY Multi-Jurisdictional Multi-Hazard Mitigation Plan Update 2024**

**ISSUING AGENCY:** Tioga County Soil & Water Conservation District  
183 Corporate Drive  
Owego NY 13827

**SUBMITTAL DATE:** **Wednesday, February 1<sup>st</sup>, 2023**

**PROPOSAL REQUIREMENTS:** One electronic copy, one (1) unbound original and three (3) copies of the proposal must be submitted to the attention of Wendy Walsh at the address below, **no later than 4:00 PM, Wednesday, February 1<sup>st</sup>, 2023**. All proposals must be sealed and in writing. **Proposals received after 4:00 PM on Wednesday, February 1<sup>st</sup>, 2023 will be rejected.**

**INQUIRIES DEADLINE:** **Wednesday, January 18<sup>th</sup>, 2023 by 4:00 PM** submitted to contact information below. Questions and responses will be posted on the Tioga County, NY website by Friday, January 20<sup>th</sup>, 2023 on Tioga County's website at [www.tiogacountyny.gov](http://www.tiogacountyny.gov) under Tioga County News

**CONTACT INFORMATION:** All inquiries regarding this RFP should be directed in writing to Tioga County's Hazard Mitigation Coordinator via mail or e-mail to:

Wendy Walsh  
Tioga County SWCD  
183 Corporate Drive  
Owego NY 13827  
Office Hours: Monday – Friday, 8:00 AM to 4:30 PM  
Phone: 607-687-3553 Fax: 607-687-9440  
e-mail: [walshw@tiogacountyny.gov](mailto:walshw@tiogacountyny.gov)

# **RFP for Tioga County**

## **Multi-Jurisdictional Multi-Hazard Mitigation Plan Update 2024**

### **I. INVITATION**

Written proposals subject to the conditions herein stated and attached hereto are invited for providing the services as described below for Tioga County, New York (hereinafter "COUNTY").

### **II. DESCRIPTION**

COUNTY is hereby requesting written proposals to provide professional services.

COUNTY will receive proposals from Proposers having specific experience and qualifications in the area identified in this solicitation. For consideration, proposals for this project must contain evidence of the Proposer's experience and abilities in the specified area and other disciplines directly related to the proposed service. Other information required by COUNTY may be included elsewhere in the solicitation

### **III. EVALUATION PROCEDURE AND FACTORS CONSIDERED**

Qualifications of Proposer: The Proposer may be required before the award of any contract to show to the complete satisfaction of COUNTY that it has the necessary facilities, ability, and financial resources to provide the service specified herein in a satisfactory manner. The Proposer will also be required to give a past history and references in order to satisfy COUNTY in regard to Proposer's qualifications. COUNTY may make reasonable investigations deemed necessary and proper to determine the ability of the Proposer to perform the work, and the proposer shall furnish COUNTY with sufficient information to prove that the Proposer is properly qualified to carry out the obligations of the contract and to complete the work described herein. Evaluation of Proposer's qualifications shall include:

- A. The ability, capacity, skill, and financial and staff resources to perform the work and provide the services required within the stated time frame, without interference or delay;
- B. The character, integrity, reputation, judgment, experience and efficiency of the Proposer; and
- C. The quality of performance of previous contracts or services.

The COUNTY's Hazard Mitigation Plan Update Steering Committee shall review and evaluate all replies. It is therefore important that respondents emphasize specific information pertinent to the work.

#### **IV. CRITERIA FOR AWARD**

STEP1: Proposals will be reviewed to assure compliance with the minimum specifications.

STEP 2: Proposals that satisfactorily complete STEP 1 will be reviewed/analyzed to determine if the proposal adequately meets the needs of COUNTY. Factors to be considered are as follows:

- A. Qualifications
- B. Past Experience
- C. Sufficiency of manpower and resources to complete task within stated timeframe
- D. References
- E. Cost

#### **V. PREPARATION INFORMATION**

- A. All proposals submitted in response to this request shall be in writing. A digital copy either emailed to the specified contact person, or sent on a flash drive with the written proposal package is also required.
- B. Inquiries regarding this Request for Proposal must be mailed to: Wendy Walsh, District Manager, Tioga County Soil and Water Conservation District, 183 Corporate Drive Owego, NY 13827 or email [walshw@tiogacountyny.gov](mailto:walshw@tiogacountyny.gov) no later than 4:00 PM on Wednesday, January 18, 2023. Responses to inquiries will be posted by January 20, 2023 at: [www.tiogacountyny.gov](http://www.tiogacountyny.gov) listed under the Tioga County News heading.
- C. Proposals and attachments must be submitted to: Wendy Walsh, District Manager, Tioga County Soil and Water Conservation District, 183 Corporate Drive Owego, NY 13827 or email [walshw@tiogacountyny.gov](mailto:walshw@tiogacountyny.gov) and received no later than February 1, 2023 at 4:00 PM.

#### **VI. MINIMUM SPECIFICATIONS**

- A. General Statement

Tioga County, NY requests proposals for the purpose of developing a Hazard Mitigation Plan Update in 2024 to meet the requirements set forth in the Stafford Act and CFR 44 part 201 Mitigation Planning. Tioga County's Hazard Mitigation Planning includes one county, and fifteen (15) municipalities. The COUNTY will require the Contractor who is awarded the contract (hereinafter the "Contractor") to work with the County's Mitigation Committee and a project manager for this update.

B. Detailed Minimum Specifications:

1. The Contractor shall work with the County's Hazard Mitigation Plan Update Steering Committee and Hazard Mitigation Plan Project Manager to ensure that the County has a FEMA approved (in writing) all hazards mitigation plan within ten (10) months of the signing of a contract.
2. Attached hereto as **Attachment A** is a Timeline, setting forth Milestones to be achieved in order to ensure completion within the ten (10) month time frame. As each Milestone as set forth is completed or near completion, Contractor will be required to submit to the COUNTY for review, additions, alterations and revision, those portions of the plan addressed in the Milestone.
3. The Contractor shall work with the County's Hazard Mitigation Plan Update Steering Committee and their partners to identify mitigation actions (Projects) for which the County and partners may seek grant funding.
4. The Contractor shall work on a day to day basis with the Project Manager who will act as the conduit to the Hazard Mitigation Plan Update Steering Committee.
5. The Contractor shall recommend actions to ensure County and participating partners are in good standing and demonstrate continued compliance with National Flood Insurance Program (NFIP) regulations, including local floodplain ordinances and permitting requirements
6. The Contractor shall present to the County a FEMA approved (in writing) Hazard Mitigation Plan Update within ten (10) months (see attached proposed schedule) of signing of the contract. It is anticipated that a consultant will be selected by the end of February 2023. Work should begin in mid-March 2023 and be completed by the end of January, 2024.
7. The Contractor shall be paid in the following manner:  
On a monthly basis, Contractor shall submit to the COUNTY a detailed invoice, specifying the services which have been completed. The COUNTY will pay Contractor approved fees and expenses for services performed in accordance with the contract within 30 days after

receipt of the invoice, EXCEPT that twenty (20) percent of each invoice amount shall be withheld as retention, and shall be held in total as accumulated, to be paid out to Contractor upon approval of the completed plan by FEMA.

## **VII. RFP FORMAT**

The proposal shall be submitted using the following format and include detail to support each criteria listed. Brevity is encouraged. Each section response is limited to two (2) pages.

- A. Cover Letter: Include an overview of your company, age and size of business, location of principle place of business and company philosophy in providing services. Provide the name of your contact person, and contact information.
- B. Qualifications: Identify company's qualifications to perform the services as more fully set forth in Paragraph III above.
- C. Scope of Work
- D. Past Experience: Provide a list of similar projects with descriptions of services provided within the last 10 years.
- E. References: Provide three (3) references for similar projects within the past five (5) years. Include the names, address and telephone number of the individual to contact for the reference.
- F. Price: Provide the total cost of your proposal, including all expenses, to complete the plan within the ten (10) month time frame. The proposal shall not exceed \$90,000 in cost to the COUNTY.
- G. Other: No other attachments are allowed, except for resumes.

## **VIII. ACCEPTANCE AND IRREGULARITIES**

Tioga County reserves the right to reject any and all proposals, and to waive any irregularities in the proposals. This RFP should not be construed as an offer to purchase goods or services. The County is not bound to accept the lowest price for any proposal of those submitted.

## **IX. POST PROPOSAL**

Subsequent to the submission of proposals, interviews and negotiations may be conducted with some of the Proposers, but there shall be no obligation to receive further information from any Proposer.

Any or all proposals shall not necessarily be accepted. The County shall not be obligated in any manner to any Proposer whatsoever until a written agreement has been duly executed. The County reserves the right to modify the terms of the RFP at any time in its sole discretion.

## **X. AWARD OF CONTRACT**

Award of contract occurs when a formal contract has been executed or other evidence of acceptance by the County is provided to the Proposer.

## **XI. DISPOSITION OF PROPOSALS/EXPENSES INCURRED**

All submitted statements shall become the property of Tioga County. The County accepts no responsibility for any expense incurred by the Proposer in the preparation and presentation of an offer.

## **XII. EFFECT**

The release of the Request for Proposal does not constitute an acceptance of any offer, nor does such a release in any way obligate the County to execute a contract with any other party. The County reserves the right to accept, reject or negotiate any or all offers on the basis of evaluation criteria contained within this document. The County may cancel this solicitation at any time.

## **XIII. TERMINATION FOR CONVENIENCE**

Any contract entered into shall contain a clause permitting Tioga County to terminate the contract at its convenience and for any reason, upon 30 days written notice to the contractor for no cause, and upon 5 days written notice for cause. Contractor shall be paid for satisfactory performance of services to date of termination.

## **XIV. DEBARMENT**

By submitting a proposal, the proposer certifies that it is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of New York or the Federal Government and that it is not a person or entity that is currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of New York or the Federal Government.

## **XV. STANDARD TERMS AND CONDITIONS**

Any contract entered into shall contain, among others, the following standard clauses and conditions:

- A. **Applicable Law:** This contract shall be governed by the laws of the State of New York. The venue of any dispute resolution shall be Tioga County
- B. **Dispute Resolution:** All disputes shall be resolved in the court of appropriate jurisdiction in the State of New York.
- C. **Taxes:** The County is exempt from all sales and use taxes.
- D. **Insurance and Indemnification:** Contractor agrees to comply with the “Tioga County General Contract and Insurance Specifications” attached hereto as **Attachment B**, and made a part hereof, as well as Tioga County Standard Clauses attached hereto as **Attachment C**, and made a part hereof.
- E. **Entire Agreement:** This agreement, together with any attachments specifically referenced, constitutes the entire agreement between the parties. This agreement may not be amended except by written agreement of the parties.

**ATTACHMENT A**  
**TIOGA COUNTY HAZARD MITIGATION PLAN - 2023 UPDATE**  
**TIMELINE & MILESTONES**

TASKS	MONTHS											
	1	2	3	4	5	6	7	8	9	10	11	12
<b>I. ORGANIZE THE PLANNING EFFORT</b>												
*Establish Core Planning Group, Steering Committee, Jurisdictional Teams and Stakeholders												
*Develop outreach strategy and meetings schedule												
*Develop Public Participation Program												
*Establish methods and schedule for soliciting and documenting input from the public, stakeholders and neighboring jurisdictions at various stages of the planning process												
*Work with each jurisdiction to update actions included in the previous plan												
<b>2. PROFILE THE COMMUNITY AND EXISTING CONDITIONS</b>												
*Detail, evaluate and document jurisdictions' demographic characteristics, governmental operations and the local economy												
*Detail, evaluate and document jurisdictions' built environment, identifying changes												
*Detail, evaluate and document jurisdictions' critical infrastructure												
*Detail, evaluate and document jurisdictions' natural environment												
*Solicit input from the public, stakeholders and neighboring jurisdictions												
<b>3. SELECT, PROFILE AND EVALUATE IMPACTS OF HAZARDS OF CONCERN</b>												
*Review all hazards considered in last Plan and select updated HOC												
*Profile all hazards of concern												
*Assess and document the impacts of each HOC to the social, built and natural environment, and critical infrastructure												
*Solicit input from the public, stakeholders and neighboring jurisdictions												
<b>4. ASSESS CAPABILITIES AND INTEGRATE RESOURCES</b>												
*Evaluate existing resources available to accomplish implementing hazard mitigation strategies and actions												



**ATTACHMENT A**  
**TIOGA COUNTY HAZARD MITIGATION PLAN - 2023 UPDATE**  
**TIMELINE & MILESTONES**

TASKS	MONTHS											
	1	2	3	4	5	6	7	8	9	10	11	12
*Identify opportunities to integrate functionality of existing resources into this HMP												
*Identify opportunities by which local governments can integrate the data, assessments and strategies into other planning mechanisms and daily operations												
*Assess and document NFIP data and local floodplain management activities												
*Describe each jurisdictions' commitment to maintaining NFIP compliance												
*Document a comprehensive listing of strategic funding sources for implementation												
*Solicit input from the public, stakeholders and neighboring jurisdictions												
<b>5. DEVELOP THE MITIGATION STRATEGY</b>												
*Consider new priorities and describe any shifts in priorities												
*Confirm and/or update goals and describe strategies for achieving goals												
*Establish prioritization criteria and select, describe and prioritize actions to mitigation risks and vulnerabilities identified in problem statements												
*For each action, identify lead department, timeframe and potential funding sources for implementatoin of each action												
*Assist each jurisdiction to complete the DHSSES mitigation action worksheet and DSHES mitigation action table for a minimum of two (2) unique mitigation actions												
*Solicit input from the public, stakeholders and neighboring jurisdictions												
<b>6. ESTABLISH THE PLAN MAINTENANCE PROCESS</b>												
*Develop a methodology and schedule for continuing public engagement throughout the five-year life cycle of the plan												
*Develop a methodology and schedule for monitoring and evaluating progress throughout the five-year life cycle of the plan												
*Schedule and document the first plan maintenance meeting												

**ATTACHMENT A**  
**TIOGA COUNTY HAZARD MITIGATION PLAN - 2023 UPDATE**  
**TIMELINE & MILESTONES**

TASKS	MONTHS											
	1	2	3	4	5	6	7	8	9	10	11	12
*Describe method and schedule for updating the mitigation plan before it expires												
*Solicit input from the public, stakeholders and neighboring jurisdictions												
<b>7. DRAFT AND SUBMIT THE PLAN</b>												
*Write and assemble draft HMP Update												
*Publish and distribute the draft HMP and solicit review and comments from the public; ensure plan is revised to address comments												
*Complete the 'Location in Plan section of FEMA's Local Mitigation Plan Review Tool												
*Submit the plan to NYSDHSES for review and revise as needed												
*Resubmit plan to NYSDHSES for FEMA review												
<b>8. ADOPT THE PLAN</b>												
*Tioga County adoption												
*Local Governments adoption												

<b>TIOGA COUNTY, NEW YORK</b> <b>General Contract Insurance Specifications</b>
---

<b>Project Description or Contract Number:</b>	Hazard Mitigation Plan Update 2024
<b>Date Issued:</b>	Tuesday, December 20, 2022 10:28 AM
<b>Vendor name (“Contractor”):</b>	TBD
<b>County Department:</b>	Emergency Management Services

**Please read these specifications very carefully.** These specifications are part of your contract with Tioga County. It is advisable that you forward a copy of these specifications to your insurance agent. Tioga County’s waiver of any requirement(s) set forth herein shall not constitute a waiver of any other contract provision.

### **Part I. General Provisions**

1. The Contractor shall procure and maintain during the term of this contract, at the Contractor’s expense, the insurance policies listed in Part II with limits equal to or greater than the enumerated limits.
2. Every required policy, including any required endorsements and any umbrella / excess policy, shall be primary insurance. Insurance carried by Tioga County, its officers, or its employees, if any, shall be excess and not contributory insurance to that provided by the Contractor.
3. Every required coverage type shall be on an “occurrence basis” unless otherwise specified or allowed.
4. The Contractor may utilize a combination of primary and umbrella/excess liability coverage to achieve the limits required hereunder; such coverage must be at least as broad as the primary coverage.
5. Proof of insurance coverage shall be provided on an ACORD 25 form or acceptable equivalent. All insurance certificates must be approved by the County Department of Law or its designee.
6. The amount of self-insured retention or deductibles must be disclosed on the certificates of insurance. The contractor shall be solely responsible for any self-insured retention or deductible losses under each of the required policies.
7. Tioga County reserves the right to request a certified copy of any policy and any endorsement thereto.
8. All insurance shall be provided by insurance carriers licensed & admitted to do business in the State of New York and must be rated “A–, XI” or better by A.M. Best (Current Rate Guide).
9. If the Contractor fails to procure and maintain the required coverage(s) and minimum limits such failure shall constitute a material breach of contract, whereupon Tioga County may exercise any rights it has in law or equity, including but not limited to the following:
  - (a) immediate termination of the contract;
  - (b) withholding any / all payment(s) due under this contract or any other contract it has with the vendor (common law set-off); OR
  - (c) procuring or renewing any required coverage(s) or any extended reporting period thereto and paying any premiums in connection therewith. All monies so paid by Tioga County shall be

APPENDIX B

repaid upon demand, or at the County’s option, may be offset against any monies due to the Contractor.

**Part II. Required Insurance – Minimum coverage types and amounts**

1.

<b>Coverage Type</b>	<b>Minimum Limits</b>												
<p><b><u>Commercial General Liability</u></b>  <u>per standard ISO form or equivalent with no modification of coverage for contractual liability</u></p> <ul style="list-style-type: none"> <li>All endorsed policy exclusions shall be disclosed by submittal of forms</li> <li>Tioga County shall be named Additional Insured, on a primary, non-contributory basis. The additional insured requirement shall be provided by ISO endorsement forms CG 20 10, CG 20 37 and CG 20 01 (or equivalent forms) and shall not contain any exclusion for bodily injury or property damage arising from completed operations. Submittal of the specified Additional Insured forms is required with the ACORD 25.</li> </ul>	<table border="0"> <tr> <td>General Aggregate</td> <td>\$2,000,000</td> </tr> <tr> <td>Products &amp; Completed Operations Aggregate</td> <td>\$2,000,000</td> </tr> <tr> <td>Personal &amp; Advertising Injury</td> <td>\$1,000,000</td> </tr> <tr> <td>Each Occurrence</td> <td>\$1,000,000</td> </tr> <tr> <td>Fire Damage</td> <td>\$300,000</td> </tr> <tr> <td>Medical Expense</td> <td>\$10,000</td> </tr> </table>	General Aggregate	\$2,000,000	Products & Completed Operations Aggregate	\$2,000,000	Personal & Advertising Injury	\$1,000,000	Each Occurrence	\$1,000,000	Fire Damage	\$300,000	Medical Expense	\$10,000
General Aggregate	\$2,000,000												
Products & Completed Operations Aggregate	\$2,000,000												
Personal & Advertising Injury	\$1,000,000												
Each Occurrence	\$1,000,000												
Fire Damage	\$300,000												
Medical Expense	\$10,000												
<p><b><u>Automobile Liability (Comprehensive Form)</u></b>                      Must cover owned, non-owned, leased and hired vehicles.</p>	\$1,000,000 Combined Single Limit												
<p><b><u>Professional Liability</u></b></p> <ul style="list-style-type: none"> <li>If “Claims Made” coverage, must be maintained continuously for a minimum of two (2) years after contract termination</li> <li>Shall <b>not</b> contain restrictions for                             <ul style="list-style-type: none"> <li>✓ Contractual liability</li> <li>✓ Express warranties or guarantees</li> <li>✓ Personal injury</li> </ul> </li> </ul>	\$1,000,000 Each Claim \$1,000,000 Annual Aggregate												
<p><b><u>Pollution Liability (Occurrence Basis)</u></b>                      If work includes remediation of Hazardous Substances</p>	\$1,000,000 Each Occurrence												
<p><b><u>Umbrella / Excess Liability (Following Form)</u></b></p> <ul style="list-style-type: none"> <li>To extend over CGL, Auto</li> </ul>	\$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate												
<p><b><u>Workers’ Compensation and Employer’s Liability</u></b>                      If you have no employees (sole proprietor) a NYS Workers’ Compensation Board issued waiver of the Workers’ Compensation requirement is acceptable</p>	Part 1 – Statutory Part 2 – (Unlimited in NYS) \$100,000 Each Accident \$500,000 Disease Policy Limit \$100,000 Disease Each Employee												
(Proof of either Workers’ Compensation Insurance or a NYS Workers’ Compensation Board issued waiver of the Workers’ Compensation insurance requirement is mandated by state law. There are no exceptions to this law.													

2. The certificate face shall:

- indicate coverages and minimum amounts required in part II.1
- provide that the coverage(s) shall not be cancelled, terminated or materially changed (including an insurance limits reduction) unless prior written notice has been given to the Tioga County.

## APPENDIX B

3. The Additional Insured & Certificate Holder should read:

County Of Tioga

**Attn: Law Department**

56 Main Street, Owego, NY 13827

### **Part III**     **Safety**

Tioga County specifically reserves the right to suspend or terminate all work under this contract whenever Contractor and/or contractor's employees or subcontractors are proceeding in a manner that threatens the life, health or safety of any of contractor's employees, subcontractor's employees, county employees or member(s) of the general public on county property. This reservation of rights by Tioga County in no way obligates Tioga County to inspect the safety practices of the Contractor.

If Tioga County exercises its rights pursuant to this part, the contractor shall be given three days to cure the defect, unless Tioga County, in its sole and absolute discretion, determines that the service cannot be suspended for three days due to Tioga County's legal obligation to continuously provide contractor's service to the public or Tioga County's immediate need for completion of the Contractor's work. In such case, Contractor shall immediately cure the defect.

If the Contractor fails to cure the identified defect(s), Tioga County shall have the right to immediately terminate this contract. In the event that Tioga County terminates this contract, any payments for work completed by the Contractor shall be reduced by the costs incurred by Tioga County in re-bidding the work and /or by the increase in cost that results from using a difference vendor.

## **APPENDIX C**

# **STANDARD CLAUSES FOR TIOGA COUNTY CONTRACTS**

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

**TABLE OF CONTENTS**

<b>Section.</b>		<b>Page.</b>
1.	<b>Relationship of parties.</b>	2
2.	<b>Executory clause</b>	2
3.	<b>Extensions, renewals, modifications.</b>	2
4.	<b>Non-assignment clause.</b>	2
5.	<b>Insurance and indemnification, hold harmless.</b>	2
6.	<b>Workers' compensation benefits.</b>	3
7.	<b>Non-discrimination requirements</b>	3
8.	<b>Wage and hours provisions for certain contracts</b>	3
9.	<b>Set-off rights.</b>	3
10.	<b>Records.</b>	4
11.	<b>Identifying information and privacy notification.</b>	4
12.	<b>Prohibition on purchase of tropical hardwoods for certain contracts.</b>	4
13.	<b>Compliance with New York State Information Security Breach and Notification Act.</b>	4
14.	<b>Non-collusive bidding certification for certain contracts.</b>	4
15.	<b>Iran divestment act requirements for certain contracts.</b>	5
16.	<b>HIPAA requirements for certain contracts.</b>	5
17.	<b>Prompt auditing of vouchers and late payment provisions</b>	5
18.	<b>Conflicting terms.</b>	5
19.	<b>Governing law.</b>	5
20.	<b>No arbitration.</b>	5
21.	<b>Giving of notices.</b>	5
22.	<b>County attorney's approval.</b>	5
23.	<b>Descriptive headings for convenience only.</b>	5
24.	<b>Accuracy of contractor representations.</b>	5
25.	<b>Sexual Harassment Policy Vendor Acknowledgement</b>	6
26.	<b>Clauses for NYSDOT Funded Contracts</b>	6



**STANDARD CLAUSES FOR TIOGA COUNTY**  
**CONTRACTS**

The parties to the attached contract, license, lease, amendment, renewal 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 County of Tioga ("the County"), whether a contractor, vendor, licensor, licensee, lessor, lessee or any other party):

**1. RELATIONSHIP OF PARTIES.** Contractor shall have the status of an independent contractor, and in accordance with such status, agrees that it will conduct itself in a manner consistent with such status, and that it will neither hold itself out as, nor claim that any of its officers or employees are officers or employees of the County by reason of this Agreement. Contractor further agrees that it will not make against the County any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.

**2. EXECUTORY CLAUSE.** (A) **All Contracts.** In accordance with § 362 of the County Law, the County shall have no liability under this contract to Contractor or to anyone else beyond funds appropriated and available for this contract. (B) **Certain Installment Purchase Contracts.** Further, in the case of an installment purchase contract, pursuant to General Municipal Law § 109-b, any such installment purchase contract is not a general obligation of the County. Neither the full faith and credit nor the taxing power of the County of Tioga are pledged to the payment of any amount due or to become due under such installment purchase contract. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or make monies available for the purpose of the contract. Further, no liability on account thereof shall be incurred by the state of New York municipal bond bank agency beyond the amount of such monies. It is understood that neither this contract nor any representation by any employee or officer of such agency creates any legal or moral obligation to appropriate or make state monies available for the purpose of the contract.

**3. EXTENSIONS, RENEWALS, MODIFICATIONS.** Extensions or renewals to the Agreement or any modification including new products, terms, or price changes to the Agreement shall be submitted by the Contractor to the County for approval by the County Legislature of the County in order to be effective. No provision of a contract which states that the term of the contract shall be deemed renewed for a specified

additional period shall be effective against the County, absent a subsequent resolution of the County legislature, specifically authorizing such renewal.

**4. NON-ASSIGNMENT CLAUSE.** In accordance with § 109 of the General Municipal Law, this contract may not be assigned by Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and attempts to do so without such consent are null and void.

**5. INSURANCE AND INDEMNIFICATION, HOLD HARMLESS.** (A) **Insurance.** (i) (a) Contractor covenants and agrees to maintain in full force and effect during the term of this Agreement, and any subsequent term, comprehensive insurance in form, term and content satisfactory to the annexed standards of the County, which are incorporated herein (*Appendix D: General Contract and Insurance Specifications*) and, to prove as evidence of such compliance, insurance certificate(s) which shall be annexed to and made part of this Agreement and shall name the County of Tioga Attention: Law Department, as Additional Insured and certificate holder (not simply "certificate holder") (except Worker's Compensation/Disability Benefits) in connection with the work being performed. (b) Said certificate(s) shall be annexed hereto prior to or at the time of execution of this Agreement by the County. (c) Contractor acknowledges that failure to obtain or maintain such insurance on behalf of the County constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the municipality. The County shall, if it deems it necessary, have the right to ask for additional certification at different points throughout the life of the contract.

(B) **Indemnification, Hold Harmless.** Notwithstanding the limits of any policy of insurance provided or maintained by Contractor, Contractor shall defend, indemnify and hold harmless the County of Tioga and its officers, employees and agents from all claims, actions, suits, liabilities, damages, awards, costs and expenses (including, without limitation, attorneys' fees) of every nature and description arising out of or related to the services provided by Contractor under

this Agreement and arising out of or caused by any act, omission, breach or negligence of Contractor or its officers, employees, volunteers, or agents. Contractor's duties and obligations pursuant to this paragraph shall survive the termination or expiration of this Agreement.

**6. WORKERS' COMPENSATION BENEFITS.** This contract shall be void and of no force and effect unless 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 (WCL). Contractor understands and agrees that pursuant to WCL § 57 (workers' compensation requirements), Contractor must provide one of the following forms to the government entity issuing the permit or entering into a contract: (A) Form CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage; (B) Form C-105.2, Certificate of Workers' Compensation Insurance; or (C) Form SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Worker's Compensation Group Self-Insurance. Pursuant to WCL § 220(8) (disability benefits requirements), Contractor must provide one of the following forms to the entity issuing the permit or entering into a contract: (A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage (see above); (B) DB-120.1, Certificate of Disability Benefits Insurance; or (C) DB-155, Certificate of Disability Benefits Self-Insurance. (In the case of NYS Agencies acceptable proof consists of a letter from the NYS Department of Civil Service indicating the applicant is a New York State government agency covered for workers' compensation). Contractor acknowledges and agrees that, pursuant to the New York State Workers' Compensation Board, ACORD forms are not acceptable proof of such coverage.

**7. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Art. 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, 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 § 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 § 230 of the Labor Law, then, in accordance with § 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 § 220-e or § 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation. It is the sole responsibility of Contractor to determine if Contractor is subject to this contract provision and to ensure compliance with same.

**8. WAGE AND HOURS PROVISIONS FOR CERTAIN CONTRACTS.** If this is a public work contract covered by Art. 8 of the Labor Law or a building service contract covered by Art. 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 Art. 8 of the Labor Law, Contractor understands and agrees that the filing of payrolls in a manner consistent with Subd. 3-a of § 220 of the Labor Law shall be a condition precedent to payment by the County of any State approved sums due and owing for work done upon the project. It is the sole responsibility of Contractor to determine if Contractor is subject to this contract provision and to ensure compliance with same.

**9. SET-OFF RIGHTS.** The County shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the County's option to withhold for the purposes of set-off any moneys due to Contractor under this contract up to any amounts due and owing to the County 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 County for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The County 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 County agency, its representatives, or the County Treasurer.

**10. RECORDS.** 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 County Legislature, County Treasurer 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 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 County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under § 87 of the Public Officers Law (the "Statute") provided that: (i) Contractor shall timely inform an appropriate County 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 County's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (A) Pursuant to Tax Law § 5, Contractor understands and agrees that, notwithstanding any other provision of law, the County shall, at the time the County contracts to purchase or purchases goods or services or leases real or personal property from any person, require that each such person provide to the County such person's federal social security account number or federal employer identification number, or both such numbers when such person has both such numbers, or, where such person does not have such number or numbers, the reason or reasons why such person does not have such number or numbers. Such numbers or reasons shall be obtained by the County as part of the administration of the taxes administered by the New York State Tax Commissioner for establishing the identification of persons affected by such taxes. (B) Contractor further understands and agrees that, notwithstanding any other provision of law, the County shall, upon request of the commissioner, furnish to the commissioner the following information with respect to each person covered by this section: (1) business name or the name under which the applicant for a license or licensee will be licensed or is licensed; (2) business address or whatever type of address the County requires the applicant for a license or the licensee to furnish to it; and (3) federal social security account number or federal employer identification number, or both such numbers where such person has both such numbers, or the reason or reasons, furnished by such person, why such person does not have such number or numbers. Notwithstanding

Art. 6 of the Public Officers Law or any other provision of law, the report to be furnished by the County to the commissioner pursuant to this section shall not be open to the public for inspection. (C) For the purposes of this section, "Person" shall mean an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of the foregoing. However, such term shall not include any public corporation, corporation formed other than for profit or unincorporated not-for-profit entity, except such term shall include an education corporation of the type dealt with in § 221 of the Education Law, an education corporation subject to Art. 101 of the Education Law and a cooperative corporation.

**12. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** Contractor certifies and warrants that any and all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of § 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 subd. (including the County) or public benefit corporation. 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. Except as might be specifically authorized by State Finance Law § 165, any bid, proposal or other response to a solicitation for bid or proposal which proposes or calls for the use of any tropical hardwood or wood product in performance of the contract shall be deemed non-responsive.

**13. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** In the event Contractor conducts business in New York state, and owns or licenses computerized data which includes private information, Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa) as applicable.

**14. NON-COLLUSIVE BIDDING CERTIFICATION FOR CERTAIN CONTRACTS.** In accordance with General Municipal Law § 103-d(1), if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury: (a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under

penalty of perjury, that to the best of knowledge and belief: (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

**15. IRAN DIVESTMENT ACT REQUIREMENTS FOR CERTAIN CONTRACTS.** In accordance with General Municipal Law § 103-g, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury: By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of Subd. 3 of § 165-a of the State Finance Law.

**16. HIPAA REQUIREMENTS FOR CERTAIN CONTRACTS.** In the event that Protected Health Information is used or disclosed in connection with or in the course of the performance of the Agreement, a “Business Associate Agreement” (“*Business Associate Agreement*”), shall be attached to and incorporated by reference in the contract, in a form and content approved by the County and shall apply in the event that Protected Health Information is used or disclosed in connection with or in the course of the performance of the Agreement by the party signing this Agreement as Business Associate, and pursuant to which Business Associate may be considered a “business associate” of the County as such term is defined in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) including all pertinent regulations issued by the U.S. Department of Health and Human Services, as amended.

**17. PROMPT AUDITING OF VOUCHERS AND LATE PAYMENT PROVISIONS.** Consistent with accepted business practices and with sound principles of fiscal management, the County shall audit vouchers and make payments expeditiously and subject to proper and reasonable financial oversight activities designed to ensure that the County receives the quality of goods and services to which it is entitled and to ensure that public funds are spent in a prudent and responsible manner. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by General Municipal Law § 3-a and General Municipal Law Art. 5-a, to the extent required by law.

**18. 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.

**19. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise. Pursuant to Civil Practice Law and Rules 504(1), the place of trial of all actions related to this contract by or against the County or any of its officers, boards or departments shall be in such county.

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

**21. GIVING OF NOTICES.** Any notice, request, or other communication required to be given pursuant to the provisions of this agreement shall be in writing and shall be deemed to have been given when delivered in person or five days after being deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, and addressed to the address listed on the face sheet of this contract. The address of either party to this agreement may be changed by notice in writing to the other party served in accordance with this provision.

**22. COUNTY ATTORNEY'S APPROVAL.** Contractor understands and agrees that the Tioga County Attorney's office may approve and make or require modifications, other than price and dates, prior to execution by the County to ensure compliance with applicable federal, state and local laws and with all provisions of the county's contract policy manual and insurance standards.

**23. DESCRIPTIVE HEADINGS FOR CONVENIENCE ONLY.** Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Contract.

**24. ACCURACY OF CONTRACTOR REPRESENTATIONS.** Contractor understands, acknowledges and agrees that this Contract will be relied upon by, and filed with, registered or recorded in or otherwise become a part of the records of, the County of Tioga. Contractor affirms, under penalty of perjury, to the best of his/her/its knowledge, information and belief, that the representations, agreements and promises made by Contractor in this Contract, and all attachments thereto, including any and all exhibits or appendices, is true, complete and accurate.

**25. SEXUAL HARASSMENT POLICY VENDOR ACKNOWLEDGEMENT**

1. Vendor represents and warrants that:
  - a) It has received and understands Tioga County's Sexual Harassment Prevention Policy ("Policy"), which is also available on the Tioga County website at <https://www.tiogacountyny.com>
  - b) It has provided each employee who provides a service to Tioga County with a copy of the Policy;
  - c) All Vendor employees have received training on the Policy, including how to file a complaint of sexual harassment against Tioga County under the Policy;
  - d) A Vendor employee who has not received a copy of the Policy and/or received training on the Policy shall not be assigned to work at a Tioga County facility or with Tioga County employees; and
  - e) Vendor shall not retaliate against a Vendor employee who exercises a right protected under the Policy or law. Upon request, Vendor shall provide Tioga County with a Vendor employee's written acknowledgement of the Policy and training received.
2. To the fullest extent provided by law, and without prejudice to any rights Tioga County may have against Vendor, Vendor shall fully cooperate with Tioga County's investigation into any claim(s) of sexual harassment by a Vendor employee against Tioga County and shall further indemnify and hold Tioga County harmless from any (a breach of this provision, to include the representations and warranties made in paragraph 1 above; and b) the cost and expense of any investigation undertaken by Tioga County which pertains to or arises from the filing of a Vendor employee's claim against Tioga County under this policy.

**26. CLAUSES FOR NYSDOT FUNDED 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 (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when

the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, 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 will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Recipient Federal Highway Administration and Federal Transportation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or Federal Highway Administration and Federal Transportation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration and Federal Transportation Administration may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration and Federal Transportation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.