

MASTER AGREEMENT FOR ENGINEERING SERVICES

This Master Agreement for Engineering Services (the “Agreement”), effective upon the date of its full execution (“Effective Date”), is **by and between the County of Oneida (“County”)**, a New York municipal corporation with its principal office at 800 Park Avenue, Utica, New York 13501, **and Arcadis of New York, Inc. (“Arcadis”)**, a New York domestic business corporation with its principal address at 201 Fuller Road, Suite 201, Albany, New York, 12203. The County and Arcadis are each a “Party” and together, the “Parties”.

RECITALS

WHEREAS, the County requires the services of engineers to provide engineering design, regulatory coordination, bid phase services, and associated project support necessary for the continuation of sewer rehabilitation projects in the Oneida County Sewer District as part of a district wide inflow/infiltration reduction program (the “Sewer Rehabilitation Program”), and issued Request for Proposals No. 2024-382 (the “RFP”) seeking the performance of such services, and a copy of the RFP is annexed as Exhibit B; and

WHEREAS, Arcadis submitted a response to the RFP (the “Proposal”), offering to provide the services described in the RFP, and a copy of the Proposal is annexed as Exhibit C; and

WHEREAS, the County wishes to retain Arcadis to provide the foregoing services on a task order basis, with task orders issued by the County in its discretion for each component or phase of engineering services as may be required, and Arcadis wishes to provide such services to the County on a task order basis in exchange for payment.

AGREEMENT

NOW, THEREFORE, for the consideration set forth herein and in each task order, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

1. TERM

- 1.1. The term of this Agreement shall commence upon the Effective Date and shall continue for five (5) years or until the expiration of the final Task Order issued pursuant to this Agreement, whichever is later. The Parties may renew this agreement for up to five (5) additional terms of one (1) year each.

2. THE SERVICES

- 2.1. Arcadis shall provide those services (“Services”) as described in task orders issued by the County in its sole discretion and agreed to by the County and Arcadis, each in substantially the form annexed as Exhibit A (each, a “Task Order” and collectively, the Task Orders).
- 2.2. As described more fully in the RFP and Proposal, each Task Order shall encompass one or several of the following components of the Sewer

Rehabilitation Program.

- 2.2.1. Preliminary design services, as described more fully in Section 2.2 of the RFP.
- 2.2.2. Base mapping services, as described more fully in Section 2.2 of the RFP.
- 2.2.3. Regulatory coordination services, as described more fully in Section 2.2 of the RFP.
- 2.2.4. Preparation of basis of design reports, as described more fully in Section 2.2 of the RFP.
- 2.2.5. Preparation of construction documents, as described more fully in Section 2.2 of the RFP.
- 2.2.6. Public bidding services, as described more fully in Section 2.2 of the RFP.
- 2.2.7. Data management services, as described more fully in Section 2.2 of the RFP.
- 2.2.8. Funding agency coordination services, as described more fully in Section 2.2 of the RFP.
- 2.2.9. Construction administration services, as described more fully in Section 2.2 of the RFP.
- 2.2.10. Construction observation services, as described more fully in Section 2.2 of the RFP.
- 2.2.11. Project management services, as described more fully in Section 2.2 of the RFP.
- 2.2.12. Additional services related to components not specifically listed in Section 2.2 but identified at a later date during the performance of work and considered critical to the successful completion of the overall project.

3. COMPENSATION

- 3.1. For Arcadis providing the Services, the County shall pay Arcadis in the amount and method set forth in each Task Order.
- 3.2. Each month, Arcadis shall submit to the County an invoice setting forth those Services provided pursuant to a Task Order in the previous month.

Such invoices shall be in a form acceptable to the County and its Department of Audit and Control. The County shall pay such invoices only after review and approval by its Department of Audit and Control which shall be within thirty (30) days of receipt of each invoice. Payment will be subject to the receipt of disbursements to Oneida County by the various funding agencies.

4. NON-EXCLUSIVE SERVICES

- 4.1. NON-EXCLUSIVE SERVICES. Arcadis expressly acknowledges that the County intends to use multiple consultants to provide engineering services for the Sewer Rehabilitation Program, and that Arcadis is not entitled to perform any of the Services unless specifically authorized by the County by Task Order.

5. PERFORMANCE

- 5.1. Arcadis represents that it is properly qualified, licensed, financed, organized and equipped to perform the Services.
- 5.2. Arcadis will furnish all labor, equipment, materials, supplies and facilities necessary for the performance of the Services.
- 5.3. Arcadis shall be responsible for providing its employees, agents, and servants with all safety equipment necessary to comply with all applicable federal, state and industry standards. Arcadis shall secure and maintain safe worksites, equipment and conditions in accordance with the requirements of any and all applicable laws and regulations, and industry standards.
- 5.4. Arcadis shall be solely responsible for providing the Services with professional care and pursuant to industry standards, and shall determine the techniques, sequences, procedures and means to be utilized, unless specified in this Agreement.
- 5.5. Arcadis's supervisory personnel shall regularly review the Services. The County shall have the right to review the Services at any time, although such review in no way alters the relationship of the Parties or the duties of Arcadis.
- 5.6. The Parties shall comply with all applicable federal, state and local laws, ordinances, rules, regulations, permits, licenses and requirements thereunder in connection with performance of the Services. In particular, Arcadis shall comply with all applicable federal and state environmental laws and regulations, including but not limited to the New York State Environmental Conservation Law and the requirements of the County's State Pollutant Discharge Elimination System permit.

- 5.7. Arcadis understands that prompt and ready provision of the Services is required by the County. Arcadis shall immediately provide notice to the County in writing of any difficulty in complying with any of the requirements of this Agreement. This shall include, but not be limited to, discoveries of unknown conditions at the Services locations, especially those that render the Services and any additional services in violation of any law, ordinance, code, rule, regulation, permit or license. Arcadis shall not incur any liability, expense or obligation without first receiving written consent from the County.
- 5.8. Arcadis shall maintain at all times strict discipline among its employees, agents, and servants. All employees, agents, and servants shall have the appropriate character, skills, credentials, licenses, and experience to provide the Services and any additional services.
- 5.9. Arcadis in the performance of this Agreement shall not discriminate against any person in violation of any state, federal, or local law, constitution, rule, or regulation.
- 5.10. At any time after execution of this Agreement, the County may request changes in Arcadis' Services consisting of additions, deletions, and revisions within the general scope of services being performed by Arcadis under this Agreement and/or any applicable Task Orders. Whenever a change in the scope and/or time for performance of Services occurs, or if the County has notified Arcadis of a change, Arcadis shall submit to the County within a reasonable time a written estimate of the changes in cost and/or schedule, with supporting calculations and pricing. Pricing shall be in accordance with the pricing structure of the applicable Task Order. In addition, should Arcadis be obstructed or delayed by the County in the commencement, performance or completion of the Services, without fault on its part, then Arcadis will be entitled to an adjustment in compensation and/or an extension in the schedule.

6. MANDATORY STATE REVOLVING FUND TERMS AND CONDITIONS

6.1. The Parties acknowledge that this Agreement is funded through the New York State Clean Water State Revolving Fund or Drinking Water State Revolving Fund. Consequently, Arcadis shall comply with the following:

6.1.1. “Mandatory State Revolving Fund Equivalency Project Terms and Conditions for Non-Construction Projects” as defined in EXHIBIT E.

6.1.2. New York State Executive Law Article 15-A and 5 New York Code, Rules, and Regulations (“NYCRR”) Parts 140-145;

6.1.3. Title VI of the Civil Rights Act of 1964 and 40 Code of Federal Regulations (“CFR”) Part 7 (“Title VI”);

6.1.4. Section 504 of the Rehabilitation Act of 1973;

6.1.5. The Age Discrimination Act of 1975;

6.1.6. Section 13 of the Federal Water Pollution Control Act;

6.1.7. The following Mandatory State Revolving Fund Terms and Conditions:

6.1.7.1. Requirements and Procedures for Business Participation Opportunities for Federal Disadvantaged Business Enterprises and New York State Certified Minority-and Women-Owned Business Enterprises and Equal Employment Opportunities for Women and Minority Group Members;;

6.1.7.2. Requirements for Equal Employment Opportunities;

6.1.7.3. Business Participation Opportunities for MWBEs;

6.1.8. Restrictions on lobbying requirements as set forth in 40 CFR Part 34.

7. DELIVERABLES AND PATENTS.

7.1. All notes, memoranda, drawings, designs, specifications, reports and copies thereof prepared by Arcadis shall become the County’s property upon payment for the Services for such deliverable.

7.2. Without the County’s prior written approval, Arcadis shall not use or designate for use in connection with the Services any patented or patent-

pending article, method or device which involves or requires payment of any license, fee or royalty in addition to the payment set forth in a Task Order, and Arcadis agrees to indemnify the County against any cost or expense incurred in the connection with the payment for such license, fee, or royalty in the event the same is not agreed to in a Task Order. The provisions of this Section shall survive the performance or termination of this Agreement.

8. CONFIDENTIALITY.

- 8.1. To provide the Services under this Agreement, it may be necessary for the County to disclose certain confidential information to Arcadis and for the Arcadis to disclose certain confidential information to the County. All confidential information shall be designated in writing as “confidential” by clear marking. In addition, oral communications between the County and Arcadis in furtherance of this Agreement may be designated confidential information by either Party.
- 8.2. Each Party agrees not to disclose any confidential information to any third party unless:
 - 8.2.1. Disclosure is required by law and, if so, advance written notice of disclosure is given;
 - 8.2.2. The information was actually and demonstrably known to the disclosing Party before it was obtained from or developed in cooperation with the other Party;
 - 8.2.3. The information is or becomes available to the public in general through a widely disseminated publication where such publication does not arise directly or indirectly from the breach of any obligation of confidentiality to either of the Parties to this Agreement;
 - 8.2.4. The information is obtained or acquired by the disclosing Party in good faith from a third party who acquired it in good faith and was not under any direct or indirect obligation of confidentiality to the other Party; or
 - 8.2.5. The Party designating the information as confidential provides a written release to the other Party.

9. NOTICES.

- 9.1. Notices to either Party shall be sent by certified United States mail, return receipt requested, at the following addresses, or at such address for a Party as last designated by such Party in writing for the receipt of notices.

Notices to the County shall be sent to:

County of Oneida
Department of Water Quality and Water Pollution Control
Attn: Commissioner
51 Leland Ave.
Utica, NY 13503

Notices to Arcadis shall be sent to:

Arcadis of New York, Inc.

201 Fuller Road
Suite 201
Albany, NY 12203

10. INDEPENDENT CONTRACTOR STATUS.

- 10.1. Arcadis and its officers, employees, personnel, agents, and servants are independent contractors and shall not be deemed employees of the County. Arcadis and such persons shall not make any claim, demand or application for any employee benefit including, but not limited to, unemployment insurance, workers' compensation, retirement, paid absence, or health insurance. Arcadis will conduct itself in accordance with its status as an independent contractor and shall not hold itself out as, nor claim to be, an officer or employee of the County. The County shall have the right to participate in any conference, discussion or negotiation with any governmental agency regarding Arcadis's status as an independent contractor.
- 10.2. The County in paying Arcadis shall not make any withholding for taxes or any other obligations. Arcadis shall be solely responsible for all applicable taxes, payroll deductions, workers' compensation insurance, and provision of health insurance where required. Arcadis shall indemnify and hold the County harmless from all loss or liability incurred by Arcadis as a result of the County not making such payments or withholdings, and such obligation shall survive the performance or termination of this Agreement.

11. SUBCONSULTANTS.

- 11.1. A subconsultant is a person who has an agreement with Arcadis to perform any of the Services.

- 11.2. All agreements between Arcadis and its subconsultants shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement, including all Exhibits.
- 11.3. Arcadis shall be solely responsible and shall remain liable for the performance of the Services.

12. INDEMNIFICATION.

- 12.1. Arcadis shall indemnify, hold harmless and defend the County, its officers, agents, employees, and servants, from and against all claims, damages, losses, judgments, and expenses (including reasonable attorneys' fees), including but not limited to claims of third parties, arising from, or related to: (a) Arcadis's Services under this Agreement to the extent caused by any negligent or culpable act or omission of Arcadis or its officers, agents, employees, servants, or subconsultant(s); or (b) any breach by Arcadis or its officers, agents, employees, servants or subconsultants of this Agreement or any law. In the event the claims, damages, losses, judgments, and expenses, including but not limited to reasonable attorney's fees, are caused solely by the County's negligence or culpable act or omission, the County shall indemnify and hold harmless Arcadis. In the event the claims, damages, losses, judgments, and expenses, including but not limited to reasonable attorney's fees, are the result of the negligence or culpable act or omission of both the County and Arcadis, or its subconsultant(s), the County and Arcadis shall be liable to the extent or degree of their respective negligence or culpable act or omission, as determined by mutual agreement of the Parties or as adjudicated by a court of competent jurisdiction.
- 12.2. Neither the termination of the Agreement nor the making of final payment to Arcadis shall release Arcadis from its indemnification obligations under this Section. The enumeration elsewhere in the Agreement of particular risks assumed by Arcadis or of particular claims for which it is responsible shall not be deemed to limit the effect of the provision of this Section or to imply that it assumes or is responsible for only risks or claims of the type enumerated.

13. INSURANCE REQUIREMENTS.

13.1. Arcadis shall purchase and maintain, and shall require any subconsultant to purchase and maintain, insurance of the following types of coverage and limits of liability with an insurance carrier qualified and authorized to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A. M. Best.

13.1.1. Commercial General Liability (“CGL”) coverage with limits of not less than One Million Dollars (\$1,000,000) each occurrence, and Two Million Dollars (\$2,000,000) annual aggregate. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001, or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products, completed operations, personal and advertising injury. The County shall be included as an additional insured, on a primary and non-contributing basis before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insured. Arcadis shall maintain said CGL coverage for itself and the additional insured for the duration of the Agreement and maintain completed operations coverage for itself and the additional insureds for at least three (3) years after completion.

13.1.2. Workers’ Compensation and Employer’s Liability, pursuant to statutory limits.

13.1.3. Business Automobile Liability with limits of at least One Million Dollars (\$1,000,000) each accident. Coverage must include liability arising out of all owned, leased, hired and non-owned automobiles. The County shall be included as an additional insured on a primary and non-contributing basis.

13.1.4. Excess/Commercial Umbrella coverage with limits of at least Five Million Dollars (\$5,000,000) per occurrence. The County shall be included as an additional insured. Excess/Commercial Umbrella coverage for such additional insureds shall apply as primary and non-contributing before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insureds.

13.1.5. Professional Liability insurance covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million Dollars (\$1,000,000) per claim and at least Two Million (\$2,000,000) in the aggregate.

- 13.2. Waiver of Subrogation: Arcadis waives all rights against the County and its agents, officers, and employees for recovery of damages to the extent these damages are covered by insurance maintained per the requirements stated above.
- 13.3. Arcadis shall provide certificates evidencing the foregoing insurance coverage to the County. Attached to each certificate of insurance shall be a copy of the additional insured endorsement that is part of each of Arcadis's General Liability and Excess/Commercial Umbrella Liability policies. The certificates shall be on forms approved by the County and shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the County. Acceptance of the certificates shall not relieve Arcadis of any of the insurance requirements, nor decrease the liability of Arcadis. The County reserves the right to require Arcadis to provide insurance policies for review by the County. Arcadis hereby grants the County a limited power of attorney to communicate with Arcadis's insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

14. BREACH AND TERMINATION.

- 14.1. The County may terminate this Agreement at any time and for any reason, or for no reason.
- 14.2. Arcadis may terminate this Agreement in the event of a material breach of this Agreement by the County if Arcadis first gives the County written notice of such material breach and the County does not cure such material breach within 30 days after delivery of such written notice.
- 14.3. If this Agreement is terminated, Arcadis shall be entitled solely to compensation for Services authorized by Task Order and performed as of the effective date of termination.

15. EXECUTORY OR NON-APPROPRIATION CLAUSE.

- 15.1. The obligations of the Parties are conditioned upon the continued availability of government funds for the purposes set forth in this Agreement. Should funds become unavailable or should appropriate officials fail to approve sufficient funds for completion of the Services set forth in this Agreement, the County shall have the option to immediately terminate this Agreement upon providing written notice to Arcadis by certified mail. In such an event Arcadis shall receive payment for costs actually incurred prior to termination and shall not receive actual or consequential damages as a result of termination.

16. NON-ASSIGNMENT.

- 16.1. Arcadis shall not assign, transfer, convey, or otherwise dispose of this Agreement, or of its right, title or interest herein, or its power to execute this Agreement, to any other person, corporation or other entity without the previous consent, in writing, by the County, provided, however, that nothing herein shall prohibit Arcadis from engaging subconsultants.

17. NON-WAIVER

- 17.1. No provision of this Agreement shall be deemed to have been waived by either Party unless such waiver shall be set forth in a written instrument executed by such Party. Any waiver by any of the Parties to any of the provisions of this Agreement shall not imply preceding or subsequent waiver of that or any other provision.

18. CHOICE OF LAW/FORUM

- 18.1. This Agreement shall be construed and enforced in accordance with the laws of the State of New York, exclusive of its choice of laws, rules and principles.
- 18.2. Any litigation relating to or arising out of this Agreement shall be heard in a New York State Court of competent jurisdiction sitting in Oneida County, New York or in the United States District Court for the Northern District of New York, and Arcadis hereby waives any objection that it may have to the venue of any such suit, action, or proceeding and irrevocably consents to the personal jurisdiction of any such court in any such suit, action, or proceeding.
- 18.3. In any litigation relating to or arising out of this Agreement, Arcadis hereby waives personal services of process upon it and agrees that service of process may be made upon Arcadis by certified mail, return receipt requested, to the address designated for notices.

19. INCORPORATION AND ORDER OF PRECEDENCE

- 19.1. The Exhibits to this Agreement are incorporated into this Agreement. In case of conflicts between the provisions of this Agreement and the Exhibits, or among the Exhibits, the following order of precedence shall control:

19.1.1. Exhibit E – Mandatory State Revolving Fund Equivalency Project Terms and Conditions for Non-Construction Projects

19.1.2. Exhibit D – Standard Contract Clauses Addendum

19.1.3. Any Task Order, with newer Task Orders taking precedence over older Task Orders.

19.1.4. This Agreement

19.1.5. Exhibit B – RFP

19.1.6. Exhibit C – Proposal

20. SUCCESSORS AND ASSIGNS

20.1. This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, legal or personal representatives, successors, and assigns.

21. SEVERABILITY

21.1. If any provision of this Agreement, or any part thereof, is or becomes void or unenforceable by force or operation of law, the Parties agree that this Agreement shall be reformed with a valid and enforceable provision that comes as close as possible to expressing the original intention. Further, the Parties agree that all other provisions shall remain valid and enforceable.

22. ENTIRE AGREEMENT

22.1. This Agreement is the final, binding agreement of the Parties and supersedes all previous negotiations and representations, written or oral, on the subject matter.

23. AUTHORITY TO ACT/SIGN

23.1. Arcadis's signatory hereby represents and certifies that he or she has the power and authority to execute and deliver this Agreement and to carry out the obligations hereunder. The execution and delivery by Arcadis's signatory of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by Arcadis; no other action on the part of Arcadis or any other person or entity, or by law or otherwise, are necessary to authorize this Agreement or to enter into this Agreement, or to consummate the transactions contemplated herein.

24. ADVICE OF COUNSEL

24.1. Each Party acknowledges that, in executing this Agreement, such Party has had the opportunity to seek the advice of independent legal counsel and has read and understood all of the terms and provisions of this Agreement.

25. AMENDMENTS

25.1. This Agreement may not be amended except through a written agreement of the Parties.

26. COUNTERPARTS

26.1. This Agreement may be executed in counterparts, each of which shall be deemed an original.

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IN WITNESS WHEREOF, the Parties herein have hereunto set their hands.

COUNTY OF ONEIDA

Anthony J. Picente, Jr.
Oneida County Executive

Date: _____

ARCADIS OF NEW YORK, INC.



By: Robert Ostaczkuk, PE

Date: 06/13/2024

Title: Vice President

APPROVED BY:

Andrew Dean, Esq.
Deputy County Attorney—Administration

Exhibit A
(Template Task Order)

Exhibit B

(RFP)

Exhibit C
(Proposal)

Exhibit D
(Standard Conditions)

Exhibit E

(Mandatory State Revolving Fund

Equivalency Project Terms and Conditions

for

Non-Construction Projects)