

- c. **BARTON & LOGUIDICE - Preston Hill Wetland Permit Consulting Services - H2560299 - H-DPW-077**

Competing Proposal	<u>X</u>
Only Respondent	<u> </u>
Sole Source RFP	<u> </u>
Other	<u> </u>

ONEIDA COUNTY BOARD OF LEGISLATORS

Name & Address of Vendor:

Barton & Loguidice, D.P.C.
443 Electronics Parkway
Liverpool, New York 13088

Title of Activity or Service:

Professional Consulting Services

Proposed Dates of Operation:

Start on Execution - Completion of Work, No Later
than December 31, 2025

Client Population/Number to be Served:

N/A

Mandated or Non-mandated:

Non-mandated

Summary Statements

1) Narrative Description of Proposed Services:

On the recommendation of the NYS DEC to procure Barton & Loguidice, D.P.C as that consultant to work on this project, and due to B&L's knowledge and expertise in this field, a proposal was solicited and received. The proposal includes, but is not limited to, data collection, wetland delineation, jurisdictional determination (JD) and Memoranda. The cost is a not to exceed fee of \$11,500.00.

Total Lump Sum Fee for Basic Services: \$11,500.00.

2) Program/Service Objectives and Outcomes: N/A

3) Program Design and Staffing: N/A

4) Funding:

	Account #:	H-DPW-077
	Total Funding	\$11,500.00
	Requested:	
Oneida County Dept. Funding Recommendation:		\$11,500.00
Proposed Funding Sources	Federal:	\$0.00
	New York State:	\$0.00
	County:	\$11,500.00

Past Performance Data: N/A

O.C. Department Staff Comments: None

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT (the "Agreement"), effective the date of this agreement, by and between the COUNTY OF ONEIDA (hereinafter called "County"), a municipal corporation organized and existing under the laws of the State of New York, with its principal office located at 800 Park Avenue, Utica, New York 13501, and **Barton & Loguidice, D.P.C.**, (hereinafter called "Consultant"), a domestic professional corporation, organized and existing under the laws of the State of New York with its place of business located at 443 Electronics Parkway, Liverpool, New York 13088 (each a "Party" and collectively the "Parties").

WITNESSETH:

WHEREAS, County requires professional consulting services associated with the following project:

1. Preston Hill Road NYS DEC Article 24 Wetland Permit

WHEREAS, Consultant has submitted a proposal to provide such services, more fully defined herein; and

WHEREAS, The Oneida County Board of Acquisition & Contract has authorized this Agreement; and

NOW, THEREFORE, it is mutually agreed that for the consideration hereinafter set forth, Consultant shall provide certain services identified in the Consultant Proposal, attached hereto as **Attachment B** (collectively hereinafter the "Services").

1. TERM

1.1. The term of this Agreement shall commence upon a written Notice to Proceed (the "Notice to Proceed") and shall terminate upon completion of all work on all projects, but no later than December 31, 2025.

2. NOTICE TO PROCEED

2.1. The Notice to Proceed shall be in the form of a letter signed by County's Project Manager (the "Project Manager"), authorizing the Services described herein. No Services shall commence until the Notice to Proceed is issued.

3. COMPENSATION

3.1. Consultant will be paid a not-to-exceed fee of **Eleven Thousand, Five Hundred dollars and Zero cents (\$11,500.00)**, for the Services identified in **Attachment C**.

3.2. Payment shall be made monthly on a basis of work completed and billed in accordance with the hourly rates established in **Attachment C**.

3.3. There shall be no separate payments for reimbursable expenses. Compensation for all reimbursable expenses is included in the not-to-exceed fee.

3.4. In case of changes affecting project scope resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, Consultant shall promptly notify County of the identified changes and advise County of the recommended solution. Services shall not be performed on such changes without prior written authorization of County. Payments for additional services performed shall be agreed upon in writing prior to commencement of such additional services and payment for such additional services shall be made based on the percentage of services completed and/or on completion of major tasks.

3.5. County reserves the right to withhold payment due to Consultant's failure to properly perform its obligations under this Agreement. County may withhold payment for reasons including, but not limited to: (1) defective services, (2) third party claims, (3) failure of Consultant to pay its sub-consultants, or (4) damage to County. County may correct any conditions which do not meet the requirements of this Agreement and deduct the cost from the amounts due under this Agreement.

3.6. Additional compensation, at a mutually agreed-upon rate, will be paid if Consultant's services are required to defend claims or litigation resulting from this project, provided claims are not result of the negligence of Consultant.

3.7. It is understood and agreed that Consultant shall not be entitled to payment for any costs incurred prior to the effective date or following the termination date of this Agreement.

4. EXECUTORY OR NON-APPROPRIATION CLAUSE

4.1. 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, County shall have the option to immediately terminate this Agreement upon providing written notice to Consultant by certified mail. In such an event Consultant shall receive payment for costs actually incurred prior to termination and shall not receive actual or consequential damages as a result of termination.

5. SCOPE OF SERVICES

5.1. This Agreement represents the entire and integrated Agreement between the Parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.

5.2. Consultant agrees to provide Services in accordance with the project description and scope of services, defined in **Attachment B**.

5.3. Consultant shall furnish any equipment, materials, and/or supplies necessary for the performance of its Services under this Agreement, and shall be responsible for providing its employees, agents and servants with all equipment necessary to comply with all applicable federal and state safety standards.

6. PERFORMANCE OF SERVICES

6.1. Consultant affirms that it does not have any financial interest or conflict of interest that would prevent Consultant from providing unbiased, impartial service under this Agreement.

6.2. Consultant's Services shall be completed and submitted in accordance with industry standards.

6.3. It is understood and agreed that Consultant has the professional skills necessary to perform the work agreed to be performed under this Agreement, that County relies upon the professional skills of Consultant to do and perform Consultant's duties.

6.4. Consultant agrees to maintain in confidence and not disclose to any person or entity, without County's prior written consent, any confidential information, knowledge or data relating to the products, processes, or operations of County. The covenants contained in this paragraph shall survive the termination of this Agreement for whatever cause.

6.5. Consultant represents that it has the experience, licenses, qualifications, staff and expertise to perform said Services in a professional and competent manner.

6.6. Consultant shall be solely responsible for determining the method, details and means of performing the Services, except where federal, state or local laws and regulations impose specific requirements on performance of the same.

6.7. Consultant is solely responsible for paying all of its business expenses related to furnishing the Services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

6.8. Consultant acknowledges and agrees that it and its employees and sub-consultants have no authority to enter into contracts that bind County, or create obligations on the part of County, without the prior written authorization.

6.9. Consultant understands that prompt and ready completion of the Services is required. Completion dates, if specified herein, may only be modified by mutual written agreement of the Parties. Consultant agrees to diligently perform the Services to be provided under this

Agreement.

6.10. Consultant shall immediately notify County in writing of any difficulty in complying with any of the requirements of this Agreement.

7. NON-ASSIGNMENT

7.1. In compliance with New York General Municipal Law Section 109, Consultant agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement, or of its right, title or interest therein, or its power to execute this Agreement, to any other person, corporation or other entity without the previous consent, in writing, by County.

8. SUBCONTRACTS

8.1. A sub-consultant is a person who has an agreement with Consultant to perform any of the Services.

8.2. Consultant agrees to furnish to County, prior to the execution of this Agreement, a list of names of sub-consultants to whom it proposes to award any portion of the Services.

8.3. Agreements between Consultant and the sub-consultants shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all Attachments. Consultant shall be solely responsible and shall remain liable for the performance of the Services.

9. CHANGE IN SERVICES

9.1. In case of changes affecting the scope of services resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, Consultant shall promptly notify County of the identified changes and advise County of the recommended solution. Services shall not be performed on such changes without prior written authorization.

10. PROJECT MANAGERS

10.1. County designates the Commissioner of Public Works, as their Project Manager, who shall be responsible for administering and interpreting the terms and conditions of this Agreement, for matters relating to Consultant's performance under this Agreement, and for liaison and coordination between the Parties. In the event County wishes to change its representative, Consultant will be notified in writing.

10.2. Consultant designates Matthew J. Schooley, P.E., as its Project Manager, who shall have immediate responsibility for the performance of the work and for all matters relating to performance under this Agreement. Any change in Consultant designated personnel or sub-consultant shall be subject to approval by the Project Manager for County.

11. NOTICES

11.1. Any notice to County may be delivered personally or sent by United States Mail, postage prepaid, to the Commissioner of Public Works, 5999 Judd Road, Oriskany, NY 13424, or at such other address last furnished in writing.

11.2. Any notice to Consultant may be delivered personally or sent by United States Mail, postage prepaid, to Consultant's Project Manager at the address listed above, or at such other address last furnished in writing.

12. INDEPENDENT CONTRACTOR STATUS

12.1. For the purposes of this paragraph only, the term "Independent Contractor" shall be broadly construed to include Consultant and any of its subcontractor(s) or sub-consultant(s), and all of their collective employees, agents, officers, servants and any of their other personnel. The relationship of the Independent Contractor to County shall be that of an independent contractor. The Independent Contractor shall not be deemed an employee of County and therefore 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. The Independent Contractor covenants and agrees that it 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 County. County and the Independent Contractor shall have the right to participate in any conference, discussion or negotiation with any governmental agency regarding the Independent Contractor's status as an independent contractor.

12.2. Payments to Consultant shall be reported on IRS Form 1099, and County shall not make any withholding for taxes or any other obligations. Consultant shall be solely responsible for all applicable taxes, payroll deductions, workers' compensation insurance, and provision of health insurance where required. Consultant shall indemnify and hold County harmless from all loss or liability incurred by Consultant as a result of County not making such payments or withholdings.

13. ASSUMPTION OF RISK

13.1. Consultant solely assumes the following risks. The risk of unforeseen obstacles and difficulties in the performing of the Services, whether such risks are within or beyond the control of Consultant and whether such risks involve a legal duty, primary or otherwise, imposed upon County.

13.2. To the fullest extent permitted by law, Consultant shall indemnify, defend, and hold County, its officers, agents and employees (the “Indemnitees”), harmless against any and all claims (including but not limited to claims asserted by any employee of Consultant or its sub-consultants) and costs and expenses of whatever kind (including but not limited to payment or reimbursement of attorneys’ fees and disbursements) allegedly arising out of or in any way related to the risks it assumes under this Section, operations of Consultant in the performance of this Agreement or from Consultant’s failure to comply with any of the provisions of this Agreement or of the law. Such costs and expenses shall include all those incurred in defending the underlying claim and those incurred in connection with the enforcement of this Section by way of cross-claim, third-party claim, declaratory action or otherwise.

13.3. Neither the termination of this Agreement nor the making of the final payment shall release Consultant from its obligations under this Section. The enumeration elsewhere in this Agreement of particular risks assumed by Consultant 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.

13.4. This assumption of risk by Consultant is absolute, excepting only reckless or intentional acts of County or its officers, agents or employees.

14. INSURANCE REQUIREMENTS

14.1. Consultant shall purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A. M. Best.

14.2. 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. 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 insureds. Consultant shall maintain said CGL coverage for itself and the additional insureds for the duration of this Agreement and maintain completed operations coverage for itself and the additional insureds for at least

three (3) years after completion.

14.3. Workers' Compensation and Employer's Liability, pursuant to statutory limits.

14.4. 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. County shall be included as an additional insured on a primary and non-contributing basis.

14.5. Excess/Commercial Umbrella coverage with limits of at least Five Million Dollars (\$5,000,000) per occurrence. 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.

14.6. Professional Liability 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.

14.7. Waiver of Subrogation: Consultant waives all rights against County and its agents, officers, and employees for recovery of damages to the extent these damages are covered by insurance maintained per requirements stated above.

14.8. County shall not issue a Notice to Proceed until certificates evidencing the insurance required by this Section have been provided to County. The certificates shall be on forms approved by 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 County. Acceptance of the certificates shall not relieve Consultant of any of the insurance requirements, nor decrease the liability of Consultant. County reserves the right to require Consultant to provide insurance policies for review by County. Consultant hereby grants County a limited power of attorney to communicate with Consultant's insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

15. REQUIRED PROVISIONS OF LAW

15.1. In performing under this Agreement, all applicable governmental laws, regulations, orders, ordinances and other rules of duly constituted authority will be followed and complied with in all respects by all Parties.

15.2. Each and every provision of law and clause required by law to be inserted in this

Agreement shall be deemed to have been incorporated herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either Party, this Agreement shall be amended in writing, and signed by both Parties to make such insertion.

15.3. Consultant agrees that there shall be no discrimination against any person or group of persons, on account of race, color, religious creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership status, mental or physical disability, medical condition, genetic information, or sexual orientation in the performance of this Agreement. Consultant shall not establish or permit any such practice(s) of discrimination with reference to this Agreement or any part thereof. Consultants determined to be in violation of this section shall be deemed to be in breach of this Agreement.

16. BREACH

16.1. A breach of this Agreement shall include, but not be limited to, the following:

16.1.1. If any insurance or bonds required to be maintained pursuant to this Agreement shall fail to be obtained or shall be cancelled or revoked at any time or if Consultant shall fail to deliver any required insurance certificate or bond.

16.1.2. If any representation or warranty made by Consultant in this Agreement shall be incorrect or fallacious in any respect.

16.1.3. If Consultant shall file a voluntary petition in Bankruptcy Court, or shall be the subject of an involuntary petition in Bankruptcy Court, or shall be adjudged as bankrupt or insolvent, or shall file any petition seeking any reorganization, liquidation, dissolution or similar relief under the present or any future statute, or shall seek or acquiesce in the appointment of any trustee, receiver or liquidator of Consultant.

16.1.4. If Consultant assigns its rights and duties under this Agreement without written consent of County.

16.1.5. County shall review Consultant's performance. If it is found Consultant is not meeting Agreement conditions, it will be formally notified. If the condition is not corrected within a time deemed reasonable to the County, then this will be cause for Agreement termination.

16.1.6. If default shall be made by Consultant in keeping, observing or performing any of the terms or covenants contained in this Agreement, including any Attachments or amendments.

16.2. If Consultant breaches this Agreement, County may declare Consultant in default and

pursue all remedies provided herein and available at law. Without limiting the available remedies, County may proceed to perform the Services required under this Agreement and charge the expense thereby incurred against the monies to which Consultant would have been entitled under this Agreement, or may contract with a third party for the performance of the Services and charge the cost and expense thereof in a like manner. In the event of a default in the performance of the Services, Consultant agrees to reimburse County for all costs, expenses and damages incurred by County in completing the Services in accordance with this Agreement.

16.3. In the event of a breach or threatened breach by either Party of its obligations under this Agreement, the other Party shall have the right to seek and obtain an injunction or other equitable relief, in addition to any other remedies provided by this Agreement, or by law.

17. TERMINATION

17.1. This Agreement may be terminated by County immediately for cause or upon ten (10) days written notice.

17.2. If this Agreement is terminated, Consultant shall be entitled to compensation for Services satisfactorily performed to the effective date of termination; provided however, that County may condition payment of such compensation upon Consultant's delivery to County of any and all documents, photographs, computer software, videotapes, and other materials provided to Consultant or prepared by Consultant for County in connection with this Agreement. Payment by County for the services satisfactorily performed to the effective date of termination shall be the sole and exclusive remedy to which Consultant is entitled in the event of termination of this Agreement and Consultant shall be entitled to no other compensation or damages and expressly waives same.

17.3. This Agreement may be terminated by Consultant upon ten (10) days written notice to County only in the event of substantial failure by County to fulfill obligations under this Agreement through no fault of Consultant.

18. DOCUMENT PRINTING/OWNERSHIP OF ORIGINAL DRAWINGS AND MANUSCRIPTS

18.1. Copies of computer diskettes, drawings and specification manuscripts in the possession of the County are to remain the property of County whether or not the project is completed. The Consultant shall provide additional copies to the County upon request. Consultant may retain copies for reference. These documents shall not be used by Consultant for other

projects without prior written approval of County. County's use of this data for purposes other than originally intended without written verification or adoption by Consultant shall be at County's sole risk.

19. ADDENDUM

19.1. Consultant shall comply with **Attachment A**, Addendum - Standard Oneida County Conditions, attached hereto and hereby incorporated by reference.

20. NON WAIVER

20.1. 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.

21. CHOICE OF LAW/FORUM

21.1. 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.

21.2. 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.

22. ORDER OF PRECEDENCE

22.1. In case of conflicts between the provisions of this Agreement and the Attachments, or between the Attachments, the following order of precedence shall control:

22.1.1. **Attachment A – Addendum**

22.1.2. **Attachment D – Change Order**, in reverse chronological order, if applicable

22.1.3. **This Agreement**

22.1.4. **Attachment B – Request for Proposal**

22.1.5. **Attachment C – Consultant Proposal**

23. SUCCESSORS AND ASSIGNS

23.1. 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.

24. SEVERABILITY

24.1. 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.

25. ENTIRE AGREEMENT

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

26. COUNTERPARTS

26.I. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be deemed one and the same instrument.

27. AUTHORITY TO ACT/SIGN

27.I. Consultant's signatory hereby represents and certifies that they have the power and authority to execute and deliver this Agreement and to carry out the obligations hereunder. The execution and delivery by Consultant's signatory of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by Consultant; no other action on the part of Consultant 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.

28. ADVICE OF COUNSEL

28.I. 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.

29. AMENDMENTS

29.I. Amendments to this Agreement, if needed, shall be in the form of the Change Order attached hereto as **Attachment D**.

(Remainder of page intentionally left blank.)

IN WITNESS WHEREOF, the respective Parties herein have hereunto set their hands and seals
the day and year first above written.

COUNTY OF ONEIDA

Anthony J. Picente, Jr.
Oneida County Executive

BARTON & LOGUIDICE, D.P.C.

Matthew J. Schooley
Executive Vice President

APPROVED BY

Andrew Dean, Esq.
Deputy County Attorney-Administration

Attachment A

Standard Contract Clauses Addendum

THIS ADDENDUM, between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

WHEREAS, COUNTY and CONTRACTOR have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which COUNTY is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. Executory or Non-Appropriation Clause.

1.1. The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.

2.1. Pursuant to Oneida County Board of Legislators Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. Certification Regarding Lobbying, Debarment, Suspension and other Responsibility Matters, and Drug-Free Workplace Requirements.

3.1. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

3.1.1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the tension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.

3.1.2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.

3.1.3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.

3.2. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,

3.2.1. The Contractor certifies that it and its principals:

3.2.1.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

3.2.1.2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contracts under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3.2.1.3. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and

3.2.1.4. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

3.2.2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

3.3. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

3.3.1. The Contractor will or will continue to provide a drug-free workplace by:

3.3.1.1. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

3.3.1.2. Establishing an on-going drug-free awareness program to inform employees about:

3.3.1.2.1. The dangers of drug abuse in the workplace;

3.3.1.2.2. The Contractor's policy of maintaining a drug-free workplace;

3.3.1.2.3. Any available drug counseling, rehabilitation, and employee assistance program; and

3.3.1.2.4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

3.3.1.3. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (3.3.1.1) above;

3.3.1.4. Notifying the employee in the statement required by paragraph (3.3.1.1) that as a condition of employment under the Contract, the employee will:

3.3.1.4.1. Abide by the terms of the statement; and

3.3.1.4.2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

3.3.1.5. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (3.3.1.4.2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

3.3.1.6. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (3.3.1.4.2), with respect to any employee who is so convicted;

3.3.1.6.1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

3.3.1.6.2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

3.3.1.7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (3.3.1.1), (3.3.1.2), (3.3.1.3), (3.3.1.4), (3.3.1.5), (3.3.1.6).

3.3.2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

3.3.3. Place of Performance (street, address, city, county, state, zip code).

3.4. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

3.4.1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

3.4.2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office

Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

4. Health Insurance Portability and Accountability Act (HIPAA). When applicable to the services provided pursuant to the Contract:

4.1. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as “HIPAA,” as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:

4.1.1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;

4.1.2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and

4.1.3. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County’s clients.

4.2. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

4.2.1. The Contractor may use and disclose protected health information for the Contractor’s own proper management and administration; and

4.2.2. The Contractor may provide data aggregation services relating to the health care operations of the County.

4.3. The Contractor shall:

4.3.1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;

4.3.2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;

4.3.3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;

4.3.4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;

4.3.5. Make available protected health information in accordance with 45 CFR § 164.524;

4.3.6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.528;

4.3.7. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

4.3.8. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of, the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

4.3.9. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by the Contractor on behalf of, the County that the Contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this Contract to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

4.4. The Contractor agrees that this contract may be amended if any of the following events occurs:

4.4.1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;

4.4.2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or

4.4.3. There is a material change in the business practices and procedures of the County.

4.5. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. Non-Assignment Clause. In accordance with Section 109 of the General Municipal 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 County's previous written consent, and attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. Worker's Compensation Benefits. In accordance with Section 108 of the General Municipal 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.

7. 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, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital 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, the 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 of the Labor Law, the 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. The 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.

8. 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 of the Labor Law, neither the 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 Articles, 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, the 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 County of any County-approved sums due and owing for work done upon the project.

9. Non-Collusive Bidding Certification. In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly 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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. Records. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. 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 Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or 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 County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, 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 Section 87 of the Public Officers Law (the "Statute") provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, 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.

Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. Identifying Information and Privacy Notification.

11.1. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number includes 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. Where the payee does not have such number or numbers, the payees, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.

11.2. Privacy Notification. (i) 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 County is mandatory. The principle 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 liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. 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 Addendum, the terms of this Addendum shall control.

13. Governing Law. This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. Prohibition on Purchase of Tropical Hardwoods.

14.1. The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired 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 sole responsibility of the Contractor to establish to meet with the approval of the County.

14.2. In addition, when any portion of this Contract involving the use of woods, whether for 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 Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to meet with the approval of the County.

15. Compliance with New York State Information Security Breach and Notification Act. The Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa).

16. Gratuities and Kickbacks.

16.1. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any

other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

16.2. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. Audit.

17.1. The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

17.2. If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. Certification of compliance with the Iran Divestment Act.

18.1. Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or

Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter “OGS”) website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

18.2. Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

18.3. During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

18.4. The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. Prohibition on Tobacco and E-Cigarette use on County Property.

19.1. Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

19.1.1. For the purposes of this provision, the “use of tobacco” shall include:

19.1.1.1. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;

19.1.1.2. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.

19.1.2. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.

19.2. For the purposes of this provision, “on Oneida County property” shall be defined as:

19.2.1. Upon all real property owned or leased by the County of Oneida; and

19.2.2. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.

19.3. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

20. Compliance with New York State Labor Law § 201-G.

20.1. The Contractor shall comply with the provisions of New York State Labor Law § 201-g.

Updated: 11/8/2018



February 13, 2025

Mr. Jason Swistak, Assistant Engineer
Oneida County Public Work Dept.
5999 Judd Road
Oriskany, New York 13424

Re: State/Federal Wetland Permitting
Subj: Preston Hill Road Widening
File: P703.4947

Dear Jason:

Barton & Loguidice, D.P.C. (B&L) is pleased to provide you with this proposal for wetland and permitting support services related to the County's planned widening and guiderail installation along a section of Preston Hill Road, between its intersection with Swartz Road and Littlefield Road, in the Town of Camden, Oneida County, New York. We understand the County is planning to pave this section of road in 2025 and install guide railing, which will require widening of the roadway embankment/shoulder backup resulting in the extension (approximately 4') of cross culverts that hydrologically connect unnamed ponded areas on both sides of the road. We also understand that Oneida County intends to complete the proposed work with their own forces, and that no state or federal funding is being used to construct this project.

We have identified the following scope of work necessary to assist the County in obtaining appropriate permits for the aforementioned project. B&L's proposed tasks are detailed below.

Proposed Scope of Work

Task 1 – Data Collection

We are currently outside of the defined vegetative growing season for wetland delineation, per the U.S. Army Corps of Engineers' (USACE) delineation methodology. Until field conditions improve, B&L will get started on data queries and review requests. Since the New York State Department of Environmental Conservation's (NYSDEC) new Freshwater Wetland Regulations will apply to this project, B&L will take the first step in the NYSDEC's new Jurisdictional Determination (JD) process and submit the project limits for a Parcel JD. Based on the presence of previously mapped state wetland along the west side of Preston Hill Road, it is anticipated that the NYSDEC will confirm the presence of wetland. No mapped streams are shown crossing Preston Hill Road at the project location.

We also propose to query the U.S. Fish and Wildlife Service's (USFWS) IPaC site for records of federal protected species that may have the potential to occupy the site. The NYSDEC's Environmental Resource Mapper does not show any rare plant or animal polygons; therefore, no state-listed species records are linked to the project site. It is assumed that further endangered species coordination will not be required to secure the Wetland Permit.

Task 2 – Environmental Site Walkover/Wetland Delineation

Based on our understanding, we will visit the site and evaluate the current site conditions to determine wetland presence/absence, as well as the presence of any surface water features that may be federally and/or state jurisdictional to the USACE or the NYSDEC, respectively. It is assumed that the field visit will be completed in a single day. The delineation will include both sides of Preston Hill Road, within the limits of the proposed widening work. It is anticipated that the County will provide assumed corridor limits for the widening project so we can cover the extent of area needed.

The wetland field delineation will be performed following the Routine Method outlined in the USACE's Wetlands Delineation Manual (Environmental Laboratory, 1987) and their Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral/Northeast Region, Version 2.0 (2011). The NYSDEC's 1995 Freshwater Wetlands Delineation Manual and methodology will also be applied during the fieldwork.

These methodologies will be used to determine the location and boundaries of wetland areas at the site. Information will be collected from co-located wetland and upland data plots to document current conditions and to provide support for the delineated boundary of wetland resources established in the field. Pink wetland delineation flagging will be hung in the field to denote the boundaries of delineated features. We will use a hand held GPS unit to collect approximate flag locations in the field. Flag positions will be collected in the State Plane NAD 83, New York Central, U.S. Survey Feet coordinate system. A shapefile or CAD file of the wetland and water resource locations will be provided.

The pipes that B&L understands to be present within the project limits will be examined for evidence of bat roosting or other use. Evidence of any use will be documented. It is not anticipated that any suspect lead-based paint or asbestos-containing materials will be identified and that no materials will require laboratory analysis.

Task 3 – Wetland Delineation Memorandum

We will produce a Wetland Delineation Memorandum to document the locations and characteristics of the wetlands and waters observed within the site limits. This document will be required to support state and federal wetland permitting. The Wetland Delineation Memorandum will include a summary of mapped resources, cover type information, descriptions of the identified wetland and water resources, site photographs, and wetland delineation datasheets. An electronic copy of the memorandum will be provided to you for review as part of the permit package.

Task 4 – Joint Application for Permit (JAP)

State-regulated wetlands and their surrounding buffers are regulated by the NYSDEC under Article 24 of the Environmental Conservation Law (ECL). Based on prior state wetland mapping, it is assumed that state jurisdictional wetlands are present at the site. It is also assumed that the aforementioned wetlands will also meet federal wetland criteria. It is B&L's understanding that wetland impacts cannot be fully avoided, based on the project objectives and the anticipated limits of disturbance. Therefore, B&L will draft a JAP package for submission to the USACE and NYSDEC. It is anticipated that this project will require a Section 401 Water Quality Certification and Article 24 Freshwater Wetland Permit from the NYSDEC and a Section 404 Nationwide Permit #3 or #14 from the USACE. The JAP will include the previously collected protected species records, site walkover assessment information and photographs, and the Wetland Delineation Memorandum.

Assumptions:

- A federal Section 404 Nationwide Permit is anticipated. The need for an Individual Permit is not anticipated.
- It is assumed that the NYSDEC will classify the project as Minor and that no public comment period will be required. No support for such has been included.
- It is assumed that the Oneida County Public Works Department will complete a review of the proposed action in accordance with the SEQRA (6 NYCRR Part 617) and will provide any documentation of this review to B&L. No time to assist with the SEQRA process has been included.
- Permanent impacts to federal wetlands are not anticipated to be above 0.10-acre.
- Impacts to wetlands will be minimized. The need for state or federal wetland mitigation has not be anticipated or included in the scope/fee for this proposal.
- Protected species review will not result in an adverse effect determination or require presence/absence surveys.
- Cultural resource review will result in a No Effect determination and no cultural resource surveys or investigations will be required.
- No materials will require sampling and laboratory analysis for lead content or asbestos.
- No stormwater design, planning or permitting is included in this proposal.

Task 5-Design Plan & Section

B&L will prepare a Plan using Aerial photography and Lidar to show the limits of the proposed work to be performed by the County. In addition, a cross section showing the 4' pipe extension will detail the fill limits and material to be utilized to armor the extension including cofferdams, turbidity curtains required to allow the installation of the pipe and stone slope protection below the ordinary high water levels. Lastly, B&L will quantify the limits of fill material to be placed below the OHW level referenced previously.

Mr. Jason Swistak, Assistant Engineer
Oneida County Public Work Dept.
February 13, 2025
Page 4



Schedule and Fee

The schedule for this scope of work is based on an anticipated notice-to-proceed in February 2025. B&L proposes to provide the Scope and Services outlined above on a time and expenses basis in accordance with our 2025 billing rates (attached) for a maximum estimated fee of \$11,500. We will not exceed the fee limit without your written approval.

We appreciate the opportunity to continue to provide support to Oneida County DPW and look forward to working together on this important project. If you have any questions or need any additional information concerning our proposal, please feel free to contact me at the Office at (315) 457-5200 or on my cell at (315) 263-8400.

Sincerely,

BARTON & LOGUIDICE, D.P.C.

A handwritten signature in blue ink, reading "Matthew J. Schooley", is positioned above the printed name.

Matthew J. Schooley, P.E.
Principal

MJS/jjb

Authorization

Barton & Loguidice, D.P.C., is hereby authorized by Oneida County to proceed with the services described herein in accordance with the Terms and Conditions proposed herein.

Oneida County

Date

STANDARD TERMS AND CONDITIONS
for
PROFESSIONAL CONSULTANT SERVICES
provided by
BARTON & LOGUIDICE, D.P.C. ("Consultant")

The OWNER and the CONSULTANT, for themselves, their successors and assigns, have mutually agreed and do agree with each other as follows:

1.0 Basic Agreement

Consultant shall provide, or cause to be provided, the Services set forth in the proposal (PROPOSAL) to which these terms and conditions are attached, and Owner shall pay Consultant for such Services as set forth in PROPOSAL. The PROPOSAL, in conjunction with these terms and conditions is referred to herein as "Agreement".

2.0 General Considerations

A. The standard of care for all professional or related services performed or furnished by Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

B. Consultant shall commence to provide its services upon the full execution of this Agreement and shall provide those services within a reasonable time. In no event shall Consultant be obligated to perform services on a schedule which, in the Consultant's professional judgement, does not provide Consultant sufficient time to perform in accordance with the aforesaid standard of care.

C. All design documents prepared or furnished by Consultant are instruments of service, and Consultant retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Consultant grants Owner a limited license to use the instruments of service exclusively (1) performance of design or operation, (2) for Project construction as is the intended purpose of the documents, and (3) for the purpose of maintenance and repair of the Project, or (4) other documents, reports, details and plans as defined in the project Scope of Work.

D. Consultant shall not at any time supervise, direct, or have control over any contractor's work, nor shall Consultant have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

E. Consultant neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor.

F. Consultant shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except Consultant's own employees) at the Project site or otherwise furnishing or performing any construction work; or for any decisions regarding, or interpretations or clarifications of, the construction contract or Instruments of Service made by Owner or any third party without the advice and consultation of Consultant.

G. If the Construction Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Consultant shall specify the appropriate performance and design criteria that such services must satisfy. The Consultant shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Consultant. The Consultant's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Consultant shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

H. Unless otherwise included under this Agreement, the parties acknowledge that Consultant's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). Owner represents to Consultant that, to the best of its knowledge, a Hazardous Environmental Condition does not exist at the Site, except as expressly disclosed to the Consultant in writing. If Consultant or any other party encounters a Hazardous Environmental Condition, Consultant may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

I. The services to be provided by Consultant under this Agreement DO NOT INCLUDE advice or recommendations with respect to the issuance, structure, timing, terms or any other aspect of municipal securities, municipal derivatives, guaranteed investment contracts or investment strategies. Any opinions, advice, information or recommendations provided by Consultant are understood by the parties to this Agreement to be strictly engineering or other technical opinions, advice, information or recommendations. Consultant is not a "municipal advisor" as defined by 15 U.S.C. 78o-4 or the related rules of the Securities and Exchange Commission. The other parties to this Agreement should determine independently whether they require the services of a municipal advisor.

J. The Consultant shall not be required to execute certificates, guarantees, warranties or make representations that would, in its professional judgment, require knowledge, services or responsibilities beyond the scope of this Agreement.

K. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

L. To the fullest extent permitted by law, Owner and Consultant (1) waive against each other, and the other's employee's, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Consultant's total liability to Owner under this Agreement shall be limited to \$100,000 or the total amount of compensation received by Consultant pursuant to the PROPOSAL, whichever is greater, (the "Limitation Amount"), and further, in no event shall the Limitation Amount exceed the amount of liability insurance proceeds actually available to the Consultant for the claim at issue at the time of settlement or final judgment net of any and all expenses paid or incurred on the claim at issue, payments made or incurred in connection with other claims made against the Consultant, or any other circumstances which may reduce, impair, or eliminate the overall availability of such insurance to the Consultant. It is intended that these limitations apply to any and all liability or cause of action.

3.0 Payment for Services

Consultant will prepare a monthly invoice in accordance with Consultant's standard invoicing practice and submit the invoice to Owner. Invoices are due and payable within 30 days of the date of the invoice. Consultant may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Consultant has been paid in full all amounts due for services, expenses, and other related charges.

4.0 Additional Services

Additional services may be required in Consultant's professional judgement because of changes in the Project, or unforeseen circumstances. The Consultant shall furnish services in addition to those set forth in the PROPOSAL if mutually agreed by Owner and Consultant. Owner shall pay Consultant for any Additional Services provided as follows: (1) as may be mutually agreed to in writing, or (2) in the absence of a mutual agreement an amount equal to the cumulative hours charged to the Project by each member or each class of Consultant's employees engaged in providing the Additional Services times the Consultant's hourly billing rates for each applicable billing class in effect at the time the Additional Services are performed; plus reimbursable expenses and charges for Consultant's Subconsultants, if any.

5.0 Dispute Resolution

Owner and Consultant agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice by either party of the existence of the dispute. If a dispute involves matters other than a claim by Consultant for payment of fees and the parties fail to resolve the dispute through negotiation then Owner and Consultant agree that they shall first submit any and all such unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation by a mutually acceptable mediator. Owner and Consultant agree to participate in the mediation process in good faith and to share the cost of the mediation equally. The process shall be conducted on a confidential basis, and shall be completed within 150 days of the date of notice by either party of the existence of the dispute. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to an alternative dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

6.0 Accrual of Claims

All causes of action between the parties to this Agreement including those pertaining to acts, failures to act, or failures to perform in accordance with the obligations of the Agreement or failures to perform in accordance with the standard of care shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts, failures to act or failures to perform occurring prior to Substantial Completion, or the date of issuance of the Notice of Acceptability of Work (or similar notice of the final completion of the Project) for acts, failures to act or failures to perform occurring after Substantial Completion.

7.0 Controlling Law

This Agreement is to be governed by the law of the state in which the project is located.

8.0 Successors, Assigns, and Beneficiaries

Owner and Consultant each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Consultant (and to the extent permitted herein the assigns of Owner and Consultant) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement. Neither Owner nor Consultant may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. This provision shall not preclude Consultant from retaining Subconsultants as it deems reasonably necessary for the completion of the services rendered hereunder.

9.0 Termination

If Consultant's services related to the project are terminated for any reason, Consultant shall be compensated for time plus reasonable expenses associated with demobilizing personnel and equipment, and, if requested in writing by the Owner, for completion of tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

10.0 Total Agreement/Severability

This Agreement, including any expressly incorporated Exhibits, constitutes the entire Agreement between Owner and Consultant and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument. If any term or condition of this Agreement shall, to any extent, be found invalid, void or unenforceable, the remaining provisions shall remain in full force and effect to the extent allowed by applicable law.

Contract No.	#####
Project No.	PIN #####
Change Order No.	1
Effective Date	Month, Day, Year

CHANGE ORDER

This Change Order modifies the Agreement entered into the X day of Month, Year, between Oneida County ("COUNTY") and Delta Engineers, Architects, & Land Surveyors, D.P.C. ("CONSULTANT") as follows:

1. **Change in Services:**
 - 1.1. CONSULTANT shall provide additional construction inspection services as defined in Exhibit A, attached hereto and incorporated herein.
2. **Change in time of Performance** (attach schedule if appropriate):
 - 2.1. No Change.
3. **Change in CONSULTANT's Compensation:**
 - 3.1. CONSULTANT shall be compensated an additional fee in the amount of \$XXXX.00 as defined in Exhibit A, attached hereto and incorporated herein.

All other terms and conditions, not inconsistent hereto, remain unchanged.

COUNTY

CONSULTANT

Signature

Anthony J. Picente, Jr.
Oneida County Executive

Date:

Signature

Daniel L. Faldzinski, P.E.
Director of Vernon Civil Engineering Services

Date:

Approved

Signature

Robert E. Pronteau
Assistant County Attorney

ONEIDA COUNTY BOARD OF ACQUISITION AND CONTRACT

RESOLUTION NO.

RE: APPROVAL OF AN AGREEMENT BETWEEN ONEIDA COUNTY, THROUGH ITS DEPARTMENT OF PUBLIC WORKS, AND BARTON & LOGUIDICE, D.P.C.

WHEREAS, This Board is in receipt of an Agreement between Oneida County, through its Department of Public Works, and Barton & Loguidice, D.P.C., for an amount not to exceed \$11,500.00, for the provision of data collection, wetland delineation, Jurisdictional Determination and Memoranda with respect to the Preston Hill Wetland Permit (H2560299 - H-DPW-077), and

WHEREAS, The Agreement shall be for a term commencing upon execution and ending no later than December 31, 2025, and

WHEREAS, Said Agreement must be approved by the Oneida County Board of Acquisition and Contract, now, therefore, be it hereby

RESOLVED, That the Oneida County Board of Acquisition and Contract hereby approves of and authorizes Oneida County Executive, Anthony J. Picente, Jr., to execute an Agreement between Oneida County, through its Department of Public Works, and Barton & Loguidice, D.P.C., for an amount not to exceed \$11,500.00, for a term commencing upon execution and ending no later than December 31, 2025, including any non-material amendments.

DATED:

Adopted by the following vote:

AYES NAYS ABSENT