

TOWN OF JAY, ESSEX COUNTY, NEW YORK
REQUEST FOR PROPOSALS

NOTICE IS HEREBY GIVEN that the undersigned, on behalf of the Town of Jay, will accept sealed proposals until 2:00 p.m. on September 30, 2025, for an Energy Audit in order to assist the Town to become more energy efficient by identifying energy conservation measures and optimal operation and maintenance procedures to assist the Town in the development of an implementation strategy with respect to the Town Hall/Community Center building (30,000 sq. feet).

This energy audit and design review shall utilize passive house principles and must be conducted with a certified Passive House Institute (PHI) Auditor as detailed in the contract between the New York State Energy Research and Development Authority (NYSERDA) with the Town of Jay bearing Agreement No. 258069, the terms and condition of which as they apply to an energy audit are incorporated into this Request for Proposals. Funding is through the Federal Energy Efficiency and Conservation Block Grant (EECBG) through the Department of Energy.

Specifications are available by contacting the Office of the Town Clerk, Carol Greenley-Hackel, at P.O. Box 730, 11 School Street, AuSable Forks, NY 12912 or by calling (518) 647-2204. Specifications are also available on the website at www.townofjayny.gov.

All proposals submitted in response to this notice shall be marked "Sealed Proposal - Town of Jay Energy Audit" clearly on the outside of the envelope with the proposers name and address.

In addition to the proposal, the proposer shall submit executed non-collusion bid certificates signed by the proposer or one of its officers as required by the General Municipal Law §103d. The proposer shall also submit an executed certificate of compliance with the Iran Divestment Act signed by the proposer or one of its officers as required by General Municipal Law §103g.

The successful proposer will be notified promptly by letter and must be prepared to enter into a contract to furnish the materials or services.

The Town of Jay reserves the right to reject any and all proposals not considered to be in the best interest of the Town of Jay, and to waive any technical or formal defect in the proposals which is considered by the Town of Jay to be merely irregular, immaterial, or unsubstantial.

PLEASE TAKE FURTHER NOTICE that the Town of Jay affirmatively states that in regard to any contract entered into pursuant to these instructions, without regard to race, color, sex, religion, age, national origin, disability, sexual preference or Vietnam Era veteran status, disadvantaged and minority or women-owned business enterprises will be afforded equal opportunity to submit bids in response hereto.

Dated: September 3, 2025

Carol Greenley-Hackel, Town Clerk
P.O. Box 730, 11 School Lane
Town of Jay, Essex County, New York 12912

A. General Information

The Town of Jay is requesting proposals for an Energy Audit in order to assist the Town to become more energy efficient by identifying energy conservation measures and optimal operation and maintenance procedures to assist the Town in the development of an implementation strategy with respect to the Town Hall/Community Center building (30,000 sq. feet).

Proposer shall provide the Town with the means to realize maximum utility savings and maximum energy efficiency at its Town Hall/Community Center.

The Town plans to select the most qualified company for the purposes.

Proposal submissions must be received by 2:00 P.M. on September 30, 2025, and should be submitted to:

Carol Greenley-Hackel, Town Clerk
P.O. Box 730
11 School Street
AuSable Forks, NY 12912

All proposals submitted in response to this notice shall be marked "**Sealed Proposal - Town of Jay Energy Audit**" clearly on the outside of the envelope with the proposer's name and address.

The Town of Jay reserves the right to reject any and all proposals not considered to be in the best interest of the Town of Jay, and to waive any technical or formal defect in the proposals which is considered by the Town of Jay to be merely irregular, immaterial, or unsubstantial.

Essex County will not be liable for any costs incurred by firms associated with the development or delivery of proposals.

Town of Jay will not be liable for any costs incurred by firms associated with the development or delivery of proposals.

Any questions concerning this Request for Proposals should be directed to Carol Greenley-Hackel, Town Clerk at (518) 647-2204.

B. Term of Engagement

The contract term will cover the entire time from the award of contract through December 31, 2025. Time is of the Essence.

C. Scope of Work

RFP

This Request for Proposals requests the services of a Certified Passive House Institute Auditor to prepare an energy audit and design for the Town Hall/Community Center (30,000 sq. feet") utilizing passive house principles which minimally include analysis of the following, along with

recommendations, implementation, detailed project costs and energy savings:

- Super-insulated envelopes: Insulation levels in walls, foundations, roofs (recommended measures should include thickness, U and R values)
- Airtight construction: Identifying and quantifying of heat loss or gain, ensuring air tightness and suggest air sealing as needed to remediate, and looking for air leaks
- High-performance glazing: Identifying insufficient or inefficient windows (including U-value, solar heat gain coefficient, and airtightness information of recommended replacements or upgrades)
- Thermal-bridge-free detailing: Examine areas of high heat transfer through the building envelope
- Heat Recovery Ventilation: Assess ventilation system design (sized to provide fresh air while minimizing energy loss), look at the heat recovery performance.
- Any other areas or improvements that will realize potential energy savings in the facility.

The energy audit shall detail improvements, upgrades and facility retrofits together with a technical and economic/cost analysis of all potential energy savings projects proposed and identify technically and economically feasible energy efficiency improvements for the existing building and equipment, the estimated costs of these specific improvements, recommendations relative to building operations and provide sufficient information to evaluate the technical and economic feasibility of the recommended projects. It is intended that upon completion of the energy audit, the Town will be in a position to undertake one or more of the specific improvements identified in the audit. The audit shall address all relevant measures the Town of Jay anticipates pursuing for implementation.

All project cost analysis shall include cost of material, labor, engineering, design, project management and commissioning of the measures.

The energy audit shall describe the facility and its energy use patterns, identify cost effective energy efficiency options, present recommendations regarding all options and include all calculations conducted in support of the analysis. The audit shall also estimate costs with respect to individual recommendations. The audit will be formatted to allow the Town to use it as a basis for the bidding of the projects. As most of the identified projects will be implemented using outside contractors, the work should be divided into logical and biddable tasks.

The Town reserves the right to select the response that best fits the needs and requirements of the Town and upon recommendation for award, enter into contract negotiations and/or request revised responses from the recommended proposer.

All terms and conditions of the contract between New York State Energy Research and Development Authority (NYSERDA) and the Town of Jay bearing Contract No. 258069 as they relate to the energy audit are incorporated herein and made a part hereof.

D. Other Requirements

Contractor will be required to provide proof of general liability insurance, workman's compensation, professional liability insurance and otherwise comply with Certification of Compliance with Iran Divestment Act (Schedule A), Non-Collusive Bidding Certification (Schedule B), Town of Jay Insurance Requirements (Schedule C), Standard Clauses (Schedule D) and General Specifications (Schedule E) attached hereto.

PROPOSAL REQUIREMENTS

A. General Requirements

1. **Inquiries** – Inquiries concerning the request for proposals and the subject of the request for proposals must be made to:

Carol Greenley-Hackel, Town Clerk
P.O. Box 730
11 School Street
AuSable Forks, NY 12912

2. **Submission of Proposals** - The following material is required to be received by September 30, 2025, for a proposing firm to be considered:

- a. **Technical Proposal** (Must include the following):

- Title Page: Include the RFP subject, firm's name, contact person's name, address, phone number, and proposal date.
- Table of Contents.
- Transmittal Letter: A signed letter stating the proposer's understanding of the work, commitment to complete it within the specified timeframe, reasons the firm is best qualified, and confirmation that the proposal is a firm and irrevocable offer.
- Proposal: Detail staff qualifications, relevant experience in Power Systems Engineering Services, and approach to the scope of work.
- Project Timeline: Outline the proposed timeline for completing assignments within the contract term.
- **NO DOLLARS SHOULD BE INCLUDED IN THE TECHNICAL PROPOSAL.**

- b. **Cost Proposal**

- Submit as a separate document per the attached Proposal Form (Appendix A).

B. Proposal

1. **General Requirements** – The purpose of the proposal is to demonstrate the qualifications, competence and capacity of the contractor seeking to undertake a project of the Town in conformity with the requirements of this request for proposals. As such, the substance of proposals will carry more

weight than their form or manner of presentation. The proposal should demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement.

The proposal should provide information on your firm's current workload, your ability to meet the project deadline and how you would accommodate this project. You should also describe how your firm can add value to this project as described herein. Please include a copy of a similar plan your company has completed recently.

The proposal should address all the points outlined in the request for proposals. The proposal should be prepared simply and economically, providing a straightforward, concise description of the proposer's capabilities to satisfy the requirements of the request for proposals.

The proposal should contain the following information about the respondent's technical approach to meeting The Town's energy efficiency objectives:

- a. Description of the proposed audit detailing the requirements set forth at pages 1 and 2 entitled C. Scope of Work.
 - b. Information about how the specific measures the respondent proposes will be identified.
 - c. A description of the respondent's approach to operations and maintenance (service) of the installed equipment, insuring savings will be achieved.
 - d. A description of the method to be used to measure guaranteed energy savings achieved in the Town's facilities through the efforts of the respondent (including any methods to be used to adjust for factors such as weather, or changes in the use or structure of buildings) should be included in the proposal.
2. **Qualifications and Experience** – The proposer should submit a resume with at least three (3) references pertaining to the scope of this RFP. The audit must be conducted with a Certified Passive House Institute auditor who will utilize Passive House principles.
3. **Identification of Anticipated Potential Problems** – The proposal should identify and describe any anticipated potential problems, the firm's approach to resolving these problems and any special assistance that will be requested from the Town.
4. **Proprietary Information** – If a submittal includes any proprietary data or information that the respondent does not want disclosed to the public, such data or information must be specifically identified as such on every page on which it is found. Data or information so identified will be used by the Town solely for the purposes of evaluating responses and conducting contract negotiations.

5. Financial Capabilities

- a. For the last three years identify the largest dollar value for an energy performance contract where your firm was the prime contractor.
- b. Indicate your firm's bonding/Letter of Credit (LOC) dollar and time limit per project, the firm's bonding capaCounty, the name of the present bonding agent or bank with contact person and telephone number.
- c. Provide a copy of the most recent year-ending statements of financial condition, certified by a public accountant, including balance sheet and income statement, dated within twelve months of filing. If the financial statements are not the sole source of credit support for projects, supply pertinent additional information.

B. Outline of Submittal Contents

The following is an outline of the requirements for submittal contents described in

this section: Section A: Background and Qualifications

Form I: General

Information Section A-1:

Project Team Resumes

Section A-2: Work

Experience

Section A-3: Additional

Information (optional) Section B:

Technical Approach

Section B-1: Project Development

Process Section B-2: Survey and

Analysis Methodology Section B-3:

Service and Maintenance Procedures

Section B-4: Methodology for Measurement and Verification of Guaranteed Energy

Savings Section B-5: Training and Support Information

Section C: Financial Capability

Section C-1: Largest Project Implemented Over Last Three

Years Section C-2: Bonding/LOC Information

Section C-3: Annual Reports or Financial

Statements Section D: Additional Information

- C. **Manner of Payment** – Invoices must be submitted bi-monthly and payment will be made monthly based on completed contract.

EVALUATION PROCEDURES

A. Review of Proposals

The Selection Committee will review qualifications of the proposals. Firms with unacceptably low technical qualifications will be eliminated from further consideration.

After the qualifications for each firm has been established, the dollar cost bid will be examined.

The Town reserves the rights to retain all proposals submitted and use any idea in a proposal regardless of whether that proposal is selected.

B. Evaluation Criteria

Proposals will be evaluated using three sets of criteria. Firms meeting the mandatory criteria will have their proposals evaluated and scored for both technical qualifications and price. The following represent the principal selection criteria that will be considered during the evaluation process.

1. Mandatory Elements

- The proposer adheres to the instructions in this request for proposal on preparing and submitting the proposal.
- The proposer has at least 5 years experience on similar assignments.
- The proposer must have a local office established for at least five years or more that contains five or more team members and the capability of monitoring, servicing and maintaining all energy conservation measures and equipment.

2. Experience and Qualifications of the Respondent (maximum 35 points)

Consideration will be given to the respondents demonstrating strong capabilities, experience and reputation in undertakings similar to those described in this RFP. Similar experience will be understood to include providing similar services to major public and private sector corporations.

3. Quality of Proposal (maximum 35 points)

Proposal responses will be evaluated on completeness, clarity/accuracy of the information requested, and proposal presentation.

4. Price/Financial Terms (maximum 30 points)

Consideration will be given to proposals that present the most cost efficient terms to the Town. Cost will not be the primary factor in the selection of firm. The proposed

price will be graded based upon the following formula:

Average Bid/Your Bid = X (whereby X cannot exceed 100%) X 30 points =

Points awarded based on cost.

Please provide a proposed fixed price audit cost for the building where the audit will be performed utilizing Passive House Principles and a Certified Passive Home Institute auditor.

The town reserves the right to waive any minor deviation in proposal responses received when such waiver is in the best interests of the Town, and reserves the right to modify any requirements, terms or conditions as outlined in this request for proposal (RFP) when such modification(s) is in the best interests of the Town.

C. Oral Presentations

The Selection Committee may request oral presentations to clarify proposals. Not all firms may be asked to present.

D. Right to Reject Proposals

Submission of a Proposal indicates acceptance by the firm of the conditions contained in this request for proposal unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the County and the firm selected.

The County reserves the right to reject any or all proposals without prejudice.

E. Contract and Insurance

Contractor shall provide insurance under terms and conditions set forth at Schedule C, attached hereto and made a part hereof.

Town of Jay Standard Terms and Conditions set forth at Schedule D shall be incorporated into and made a part of the contract.

F. Surety Bond

The selected bidder will be required to provide the Town of Jay with 100% payment in performance bonds from a surety company licensed to do business in the State of New York.

G. Subcontracting

Except to the extent contemplated in the response and permitted in the contract, the contract will prohibit assignment or subcontracting without the Town of Jay's express prior approval.

H. Compliance With Laws

The contract will require compliance with all federal, state and municipal laws, ordinances, rules and/or regulations, including labor laws and laws against employment discrimination.

Contractor will comply with the federal rules attached hereto and made a part hereof at Schedule E.

I. Wage and Labor Provisions

Contractor will comply with all applicable New York State wage and labor provisions.

J. Governing Law, Venue

All contracts entered into by the Town of Jay shall be governed by the Laws of the State of New York, without effect to its conflict of laws provisions. Any disputes shall be resolved within the venue of any court of competent jurisdiction located in Essex County, New York.

K. Respondent Due Diligence

Information provided in the RFP is for general information purposes only. It is the Respondent's responsibility to conduct due diligence on the Site. Submission of a response shall be conclusive evidence that the respondent has examined the Premises and is familiar with all the conditions of this procurement.

L. Pre-Contractual Expenses

All Proposals prepared in response to this RFP are at the sole expense of the Proposer, and with the express understanding that there will be no claim, whatsoever, for reimbursement from the Town of Jay for the expenses of preparation. The Town of Jay shall not be liable for any expenses incurred by the Proposer prior to the date of award and commencement of contract services.

M. Site Visits

Site visits may be arranged by appointment by calling the Town Hall during regular business hours, Mon. – Thurs. between the hours of 9 am and 2 pm. Our phone number is (518) 647 2204. Any questions may be asked by dialing the same number.

N. Notifications

The Contractor will immediately notify the Town of Jay of any and all issues that may result in a project delay and/or impact work quality or safety.

O. Subcontractors

The Town of Jay must be informed of and approve all work done by subcontractors; however, the Town of Jay will deal only with the Contractor regarding work done and costs incurred by subcontractors. Any and all subcontractors must comply with Town of Jay Insurance Requirements and Standard Terms and Conditions.

P. Deadlines for Submission

By 2:00 p.m. September 30, 2025.

SCHEDULE A
CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT

As a result of the Iran Divestment Act of 2012 (the "Act"), Chapter 1 of the 2012 Laws of New York, a new provision has been added to State Finance Law (SFL) § 165-a and New York General Municipal Law § 103-g, both effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law) (the "Prohibited Entities List"). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/ 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 OGS website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to SFL § 165-a(3)(b).

Additionally, Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS Website, any Bidder/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.

During the term of the Contract, should the Town receive information that a Bidder/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/it has ceased engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Town shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

The Town reserves the right to reject any bid or request for assignment for a Bidder/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/Contractor that is awarded a contract and subsequently appears on the Prohibited Entities List.

I, _____, being duly sworn, deposes and says that he/she is the _____ of the _____ Corporation and that neither the Bidder/Contractor nor any proposed subcontractor is identified on the Prohibited Entities List.

SIGNED

SWORN to before me this ____ day of _____, 20__.

Notary Public

SCHEDULE B
NON-COLLUSIVE BIDDING CERTIFICATION

1. By submission of this bid, the undersigned bidder and each person signing on behalf of such bidder certifies and in the case of a joint bid each party thereto certifies as to its own organization — UNDER PENALTY OF PERJURY, that to the best of the undersigned's knowledge and belief:

(a) 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;

(b) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

(c) 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.

2. The undersigned acknowledges and agrees that a bid shall not be considered for award nor shall any award be made where any of the above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where one or more of the above has/have not been complied with, the bid shall not be considered for award nor shall any award be made unless the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

3. The undersigned also acknowledges and agrees that the fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of paragraph 1 above.

4. The undersigned further acknowledges and agrees that any bid hereafter made to any political subdivision of the state or any public department, agency or official thereof by a bidder which is a corporation or a limited liability company for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in paragraph 1 of this certificate, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation or limited liability company.

Name of Bidder: _____
(print full legal name)

Date Signed: _____ Signature: _____

Name of Person Signing Certificate: _____
(print full legal name of signer)

Bidder is (check one): ☐ an individual, ☐ a limited liability partnership, ☐ a limited liability company,
☐ other entity (specify): _____

CONTRACTOR'S ACKNOWLEDGEMENT

(If Corporation)

STATE OF NEW YORK) SS: COUNTY OF ESSEX)

On this ____ day of _____ 20____, before me personally came _____
_____ to me known, and known to me to be the _____ of
the Corporation described in and which executed the within instrument, who being duly sworn did depose and say
that he, the said _____ reside at _____ and that
he is _____ of said corporation and knows the corporate seal of the said corporation; that
the seal affixed to the within instrument is such corporate seal and that it was so affixed by order of the Board of
Directors of said corporation, and that he signed his name thereto by like order.

Notary Public

CONTRACTOR'S ACKNOWLEDGEMENT

(If Individual)

STATE OF NEW YORK) SS: COUNTY OF ESSEX)

On this ____ day of _____ 20____, before me personally came
_____ to me known, and known to me to be the same
person described in and who executed the within instrument and he duly acknowledged to me that he executed the
same for the purpose herein mentioned and, if operating under and trade name, that the certificate required by the
New York State Penal Law, Sections 440 and 440-b has been filed with the County Clerk of Essex County.

Notary Public

CONTRACTOR'S ACKNOWLEDGEMENT

(If Co-Partnership)

STATE OF NEW YORK) SS: COUNTY OF ESSEX)

On this ____ day of _____ 20____, before me personally came
_____ to me known, and known to me to be a member of the firm of and the
person described in, and who executed the within instrument in behalf of said firm for the purposes herein
mentioned and that the certificate required by the New York State Penal Law, Sections 440 and 440-b has been
filed with the County Clerk of Essex County.

Notary Public

SCHEDULE C
INSURANCE REQUIREMENTS - PUBLIC WORKS CONTRACTORS

I. The Contractor and each of its subcontractors shall procure and maintain during the entire term of the contract the following required insurance:

→ ***Commercial General Liability Insurance***

\$1,000,000 per occurrence/ \$2,000,000 aggregate, including coverage for liability assumed by contract, completed operations, explosion, collapse, underground hazard and products liability.

→ ***Automobile Liability***

\$1,000,000 combined single limit for owned, hired and borrowed and non-owned motor vehicles.

→ ***Workers' Compensation***

Statutory Workers' Compensation and Employers' Liability Insurance for all employees. Proof of coverage must be on the approved specific form, as required by New York State Workers' Compensation Board. ACORD certificates are not acceptable.

→ ***Owners & Contractors Protective Liability Insurance***

\$2,000,000 per occurrence / \$2,000,000 aggregate, with the Town as the named insured.

→ ***Excess/Umbrella Liability Insurance***

\$1,000,000 per occurrence / \$2,000,000 aggregate.

→ ***Builders Risk Insurance of Installation Floater (When Required)***

Coverage shall be on a direct risk of loss basis in the amount of \$ _____. The Town shall be an additional insured, as their interest may apply.

II. Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Contractor hereby agrees to name the Town as:

→ an additional insured on the Contractor's Commercial General Liability, Automobile Liability and Excess/Umbrella Liability insurance policies; and

→ a named insured on the Owners & Contractors Protective Liability Insurance policy.

III. The policy/policies of insurance furnished by the Contractor shall:

→ be from an A.M. Best rated "A" New York State licensed insurer rated "Secure" or better authorized to conduct business in New York State. A New York licensed insurer is preferred. The decision to accept specific insurers lies exclusively with the Town; and

→ contain a 30-day notice of cancellation

IV. The Contractor agrees to indemnify the Town for any applicable deductibles and self insured retentions.

V. Contractor acknowledges that failure to obtain such insurance on behalf of the Town constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the Town. Prior to commencement of work or use of facilities, the Contractor shall provide to the Town proof that such requirements have been met by furnishing certificate(s) of such insurance, and the declarations pages from the policies of such insurance. The failure of the Town to object to the contents of the certificate(s) and/or declarations pages, or the

absence of same, shall not be deemed a waiver of any and all rights held by the Town.

VI. All certificates of insurance will provide 30 days notice to the Town of cancellation or non-renewal.

VII. Contractor and subcontractor waives all rights of subrogation against the owner and will have the General Liability, Umbrella Liability Workers' Compensation policies endorsed setting forth this Waiver of Subrogation.

VIII. All policies will also contain no exclusions with respect to Section 240 and 241 of the NYS Labor Law.

IX. The Town, its Board, employees and volunteers shall be listed as an additional insured on a primary and non-contributory basis. Additional insured status shall be provided by standard or other endorsements that extend coverage to the Town for both ongoing and completed operations. The decision to accept an endorsement rests solely with the Town. A complete copy of the endorsements must be attached to the certificate of insurance.

X. The certificate of insurance must describe the specific services provided by the Contractor (e.g. roofing, carpentry, plumbing) that are covered by the liability policies.

XI. A fully completed New York Construction Certificate of Liability Insurance Addendum (ACCORD 855 2014/05) must be included with the certificates of insurance.

XII. At the Town's request, the Contractor shall provide a copy of the declaration page of the liability and umbrella policies with a list of endorsements and forms. If so requested, the Contractor will provide a copy of the policy endorsements and forms.

XIII. The Town is a member/owner of the NY Municipal Insurance Reciprocal (NYMIR). The Contractor further acknowledges that the procurement of such insurance as required herein is intended to benefit not only the Town but also NYMIR, as the Town's insurer.

XIV. All Contractors Subcontractors shall comply with these provisions and shall list the Town as additional insured on a primary and non-contributory basis.

SCHEDULE D
STANDARD CLAUSES FOR TOWN OF JAY CONTRACTS

1. **Independent Contractor Status**

The parties each acknowledge, covenant and agree that the relationship of the Contractor to the Town shall be that of an independent contractor. The Contractor, in accordance with its status as an independent contractor, further covenants and agrees that it:

- (a) will conduct itself in accordance with its status as an independent contractor;
- (b) will neither hold itself out as nor claim to be an officer or employee of the Town; and
- (c) will not make any claim, demand or application for any right or privilege applicable to an officer or employee of the Town, including but not limited to workers' compensation benefits, unemployment insurance benefits, social security coverage or retirement membership or credits.

2. **Contractor To Comply With Laws/Regulations**

The Contractor shall at all times comply with all applicable state and federal laws, rules and regulations governing the performance and rendition of the services to be furnished under this agreement.

3. **Licenses, Permits, Etc.**

The Contractor shall, during the term of this agreement, obtain and keep in full force and effect any and all licenses, permits and certificates required by any governmental authority having jurisdiction over the rendition and performance of the services to be furnished by the Contractor under this agreement.

4. **Termination**

This agreement may be terminated without cause by either party upon 30 days prior written notice, and upon such termination neither party shall have any claim or cause of action against the other except for services actually performed and mileage expenses actually incurred prior to such termination. Notwithstanding the foregoing, this agreement may be immediately terminated by the Town:

- (a) for the Contractor's breach of this agreement, by serving written notice of such termination stating the nature of the breach upon the Contractor by personal delivery or by certified mail, return receipt requested, and upon such termination either party shall have such rights and remedies against the other as provided by law; or
- (b) upon the reduction or discontinuance of funding by the State or Federal governments to be used in furnishing some or all of the work, labor and/or services provided for under this agreement, and upon such termination neither party shall have any claim or cause of action against the other except for services actually performed and expenses (if the same are to be paid under this agreement) actually incurred prior to such termination.

5. **Defense & Indemnification**

The Contractor shall defend, indemnify and hold harmless the Town to the fullest extent allowed by law, and notwithstanding any insurance requirements, from and against any and all liability, losses, claims, actions, demands, damages, expenses, suits, judgments, orders, causes of action and claims, including but not limited to attorney's fees and all other costs of defense, by reason of any liability whatsoever imposed by law or otherwise upon the Town for damages to person, property or of any other kind in nature, including but not limited to those for bodily injury, property damage, death arising out of or in connection with its officers, employees, agents, contractors, sub-contractors, guests or invitees negligence or its/their performance or failure to perform this agreement.

6. **Discrimination Prohibited**

The services to be furnished and rendered under this agreement by the Contractor shall be available to any and all residents of Town of Jay without regard to race, color, creed, sex, religion,

national or ethnic origin, handicap, or source of payment; and under no circumstances shall a resident's financial ability to pay for the services provided be considered unless such consideration is allowed by State and/or Federal law, rule or regulation.

7. **Non-Discrimination In Employment**

The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status. In the event that this is a contract to be performed in whole or in part within the State of New York for (a) the construction, alteration or repair of any public building or public work, (b) for the manufacture, sale or distribution of materials, equipment or supplies, (c) for building service, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin:

- (1) discriminate in hiring against any citizen who is qualified and available to perform the work; or
- (2) discriminate against or intimidate any employee hired for the performance of work under this contract.

The Contractor agrees to be subject to fines of \$50.00 per person per day for any violation of this paragraph, as well as to possible termination of this contract or forfeiture of all moneys due hereunder for a second or subsequent violation.

8. **Damage/Injury To Persons & Property**

The Contractor shall promptly advise the Town of all damages to property of the Town or of others, or of injuries incurred by persons other than employees of the Contractor, in any manner relating, either directly or indirectly, to the performance of this agreement.

9. **Records**

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter collectively "the Records") in accordance with the following requirements:

- (a) the Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter;
- (b) the Town Auditor, State Comptroller, the Attorney General or any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York, or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

The Town shall take reasonable steps to protect from public disclosure any of the records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate Town official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified and designation of said records as exempt under the statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the Town's right to discovery in any pending or future litigation.

10. **Claims For Payment**

All invoices or claims for which payment is sought from the Town must be submitted in accordance with the following:

- (a) each claim for payment must include:
 - (1) an invoice detailing the claim,
 - (2) copies of all documentation supporting the claim,
 - (3) a properly completed Town standard voucher, which includes
 - (i) the Town contract number under which payment is being claimed, **AND**
 - (ii) the payee's Federal employer identification number or Federal social security number, or both

such numbers when the payee has both such numbers. *[Failure to include this number or numbers will prevent and preclude payment by the Town; except that where the payee does not have such number or numbers, the payee, on the invoice or Town voucher, must give the reason or reasons why the payee does not have such number or numbers and such reasons constitute a valid excuse under law.]*

- (b) Unless otherwise provided in this agreement, each claim for payment must be submitted to the Town no later than 30 days after the work, labor, materials, and/or services for which payment is claimed were rendered or furnished.
- (c) Notwithstanding any other provision of this agreement, no claim for payment shall be valid, and the Town shall not be liable for payment thereof, unless it is submitted to the Town within 30 days of the close of the calendar year in which the work, labor, materials, and/or services for which payment is claimed were rendered or furnished.
- (d) Unless otherwise provided in this agreement, the requirements of this paragraph 10, and/or of any other provisions of this agreement which supersede the same, shall constitute conditions precedent to the Town's payment obligation, and failure to comply with any or all of said requirements shall entitle the Town to deny payment.
- (e) As a further condition of payment, each claim of payment shall be accompanied by a Contractor and Sub-Contractor Progress Payment Waiver, Release and Discharge, and each Final Payment shall be accompanied by a Contractor and Sub-Contractor Final Payment, Waiver and Release form. As well as a Contractor Affidavit relative to Final Payment. Copies of these forms are attached and made a part hereof. (Please disregard if these forms do not pertain).

11. **Consent**

In the event that State or Federal law requires the recipient of services to be furnished and rendered under this agreement to give his/her prior consent thereto, the contractor shall obtain such person's consent and furnish proof thereof to the Town.

12. **Executory Clause**

The Town shall have no liability under this contract to the Contractor or to anyone else beyond the funds appropriated and available for this contract.

13. **Public Work & Building Service Contract Requirements**

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof:

- (a) 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 statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department; and
- (b) 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.

14. **Public Work Contracts – Hazardous Substances**

If this is a contract for public work, the Contractor agrees as follows:

- (a) the Contractor acknowledges that the Town uses and/or produces various substances which may be classified as hazardous under OSHA's Hazard Communication Standard;
- (b) the Contractor recognizes the use of said substances by the Town and acknowledges that the Town has provided, or upon request will provide, the Contractor with a description of such substances which may be present in the area of the Town's facility/facilities to which the Contractor may have accessed during the performance of this contract;
- (c) the Contractor acknowledges that the Town has provided, or upon request will provide, suggestions for appropriate protective measures which should be observed when the Contractor is in the area of any such hazardous substances;
- (d) the Contractor agrees to be solely responsible for providing training and information to its

- employees regarding any such hazardous substances, as well as of any protective measures suggested by the Town;
- (e) the Contractor agrees to be solely responsible to ensure that the Contractor's employees observe protective measures during the performance of their duties in the performance of the contract, and that all such protective measures will be at least as stringent as those suggested or which would have been suggested by the Town;
 - (f) in the event that the Contractor's performance of the work under this contract requires the use of any hazardous substances, the Contractor shall notify the Town in advance of bringing in and/or using such substances in or upon Town property and suggest to the Town appropriate measures to be observed by the Town, its officers and employees, and/or the public; and
 - (g) in the event the Contractor fails in whole or in part to comply with the terms of this paragraph, the Town shall have the right to interrupt the Contractor's work and/or terminate this contract, and the Contractor shall be prohibited from renewing such work until all applicable safety and health procedures and practices are implemented by the Contractor.

15. **Disputes**

Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be heard in a court of competent jurisdiction within the State of New York.

16. **Non-Assignment**

This agreement may not be assigned, subcontracted, transferred, conveyed, sublet or otherwise disposed of in whole or in part, by the Contractor, without the prior written consent of the Town, and any attempts to assign the contract without the Town's written consent are null and void.

17. **No Collusion**

If this contract was awarded based upon the submission of bids, the Contractor warrants, under penalty of perjury, that:

- (a) its bid was arrived at independently and without collusion aimed at restricting competition; and
- (b) at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the Town a non-collusive bidding certification on Contractor's behalf.

18. **International Boycott**

In accordance with Section 220-f of the Labor Law, if this contract exceeds \$5,000.00, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation, has participated, is participating, or shall participate in an International boycott in violation of the federal Export Administration Act of 1979, or regulations thereunder. If such contractor, or any of the aforesaid affiliates of Contractor, is convicted, or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the Town Manager within five (5) business days of such conviction, determination or disposition of appeal.

19. **Town's Rights of Set-Off**

The Town shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the Town's option to withhold for the purposes of set-off any moneys due to the Contractor under this agreement up to any amounts due and owing to the Town with regard to this contract, any other contract with any Town department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the Town for any other reason, including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The Town shall exercise its set-off rights in accordance with normal Town practices, including, in cases of set-off pursuant to an audit, the

acceptance of such audit by the Town Board or its designated representative.

20. **Contractor Defined**

Whenever the term "Contractor" is used in this agreement, such term shall include and apply to all employees, all officers, directors and agents, if any, of the Contractor.

21. **Amendment**

This agreement may not be amended, modified or renewed except by written agreement signed by the Contractor and the Town.

22. **Ownership Of Work Products**

All final and written or tangible work products completed by the Contractor shall belong to the Town. In the event of premature discontinuance of performance, the Contractor agrees to deliver all existing products and data files to the Town.

23. **Executive Order Debarment/Suspension**

In the event that this contract involves the Contractor furnishing goods and services in excess of \$100,000.00, or constitutes a subaward to subrecipients, under any Federal program, grant or other funding source, then by executing this agreement the Contractor certifies that neither it nor any of its principals are suspended or debarred within the scope or meaning of Executive Orders 12549 and 12689, any Federal or State regulation implementing or codifying the same, or any other Federal or State law, rule or regulation.

24. **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

In the event that this contract involves the use or disclosure of protected health information within the meaning or application of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the regulations thereunder, the following provisions of this paragraph shall apply.

(a) **Definitions.** The terms used, but not otherwise defined, in this Agreement shall have the same meaning as given such terms in 45 CFR §160.103 and §164.501, as the same may be amended from time to time, including but not limited to the following.

(1) "Business Associate" shall mean the Contractor, its officers, employees, agents and subcontractors.

(2) "Covered Entity" shall mean Town of Jay (the "Town"), its departments, agencies, officers and employees.

(3) "Individual" shall have the same meaning as given such term in 45 CFR §164.501 and shall also include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

(4) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subparts A and E.

(5) "Protected Health Information" shall have the same meaning as given such term in 45 CFR §164.501, limited to the information created or received by Contractor from or on behalf of the Town.

(6) "Required by law" shall have the same meaning as given such term in 45 CFR §164.501.

(7) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.

(b) **Obligations and Activities of Contractor.**

Contractor agrees to:

(1) not use or disclose Protected Health Information other than as permitted or required by this Agreement or as required by law;

(2) use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement;

(3) mitigate, to the extent practicable, any harmful effect that is known, should have been

known, and/or discovered to/by Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this Agreement;

(4) report to the Town any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware;

(5) ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Contractor on behalf of the Town agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information;

(6) provide access, at the request of the Town, and in the time and manner designated by the Town or the Secretary, to Protected Health Information in a Designated Record Set, to the Town or, as directed by the Town, to an Individual in order to meet the requirements under 45 CFR §164.524;

(7) make any amendment(s) to Protected Health Information in a Designated Record Set that the Town directs or agrees to pursuant to 45 CFR §164.526 at the request of the Town or an Individual, and in the time and manner designated by the Town or the Secretary;

(8) make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, the Town available to the Town, and/or to the Secretary, in a time and manner designated by the Town or by the Secretary, for purposes of the Secretary determining the Town's compliance with the Privacy Rule;

(9) document such disclosures of Protected Health Information and information related to such disclosures as would be required for the Town to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528;

(10) provide to the Town or an Individual, in time and manner designated by the Town or the Secretary, information collected in accordance with the above subparagraph (b)(9) of this Agreement, to permit the Town to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.

(c) Permitted Uses and Disclosures by Contractor.

Except as otherwise limited in this Agreement, Contractor may use or disclose Protected Health Information on behalf of, or to provide services to, the persons entitled to services under this Agreement:

(1) solely for the purposes of performing Contractor's obligations under this Agreement, if such use or disclosure of Protected Health Information would not violate the Privacy Rule if done by the Town or the minimum necessary policies and procedures of the Town; or

(2) provided that such use or disclosures are required by law; or

(3) Contractor

(A) obtains written authorization(s) from the individual to which the information pertains permitting the specific uses or disclosures of such information to third persons,

(B) represents and agrees in writing with such individual that the information to be used and/or disclosed will remain confidential and used or further disclosed only as required by law or for the purposes specified in the written authorization(s), and

(C) such third persons agree in writing to notify the Town as soon as practicable and in writing of any instances of which such third person(s) is/are aware in which the confidentiality of the information has been breached; or

(4) provide Data Aggregation services to the Town as permitted by 42 CFR §164.504(e)(2)(i)(B); or

(5) report violations of law to appropriate Federal and State authorities, consistent with §164.502(j)(1).

(d) Town To Inform Contractor of Privacy Practices and Restrictions.

The Town agrees to notify the Contractor of any

(1) limitation(s) in its notice of privacy practices of the Town in accordance with 45 CFR

§164.520, to the extent that such limitation may affect the Contractor's use or disclosure of Protected Health Information;

(2) changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Contractor's use or disclosure of Protected Health Information; and/or

(3) restriction to the use or disclosure of Protected Health Information that the Town has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Contractor's use or disclosure of Protected Health Information.

(e) Permissible Requests by Town.

The Town shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Town; except that in the event that the services to be furnished by the Contractor under this Agreement requires data aggregation by the Contractor, the Contractor may use or disclose protected health information for such data aggregation or management and administrative activities of Contractor.

(f) Survival of Provisions.

The obligations of the Contractor under this paragraph 24 shall survive the expiration of the term of this Agreement and/or the termination of this Agreement, and said obligations shall remain effective and shall not terminate until all of the Protected Health Information provided by the Town to Contractor, or created or received by Contractor on behalf of the Town, is destroyed or returned to the Town, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in subparagraph (g) below.

(g) Return or Destruction of Protected Health Information.

Except as otherwise provided below, upon termination of this Agreement for any reason, Contractor shall return or destroy all Protected Health Information received from the Town, or created or received by Contractor on behalf of the Town. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information.

In the event that Contractor determines that returning or destroying the Protected Health Information is infeasible, Contractor shall provide to the Town notification of the conditions that make return or destruction infeasible. Upon determination by the Town that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protected Health Information.

(h) Termination for Cause.

Upon the Town's knowledge of a material breach of this paragraph by Contractor, the Town shall:

(1) either:

(A) provide an opportunity for Contractor to cure the breach or end the violation and terminate this Agreement within the time specified by the Town, or

(B) immediately terminate this Agreement if cure is not possible; and

(2) report the violation to the Secretary.

(i) Miscellaneous.

(1) Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

(2) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Town to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

(3) Survival. The respective rights and obligations of Contractor under this paragraph 24 of this Agreement shall survive the termination of this Agreement.

(4) Interpretation. Any ambiguity in this Agreement shall be resolved to permit the Town to comply with the Privacy Rule.

25. **Severability**

If any term or provision of this agreement or the application thereof to any person or circumstance shall to any extent be held invalid or unenforceable, the remainder of this agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and every other term and provision of this agreement shall be valid and be enforced to the fullest extent permitted by law.

26. **Entire Agreement**

This agreement is the entire agreement between the parties, and the same shall be construed in accordance with the laws of the State of New York.

27. **For Medicaid/Federal Health Care Related Work**

Excluded/Debarred Party Clause

The Vendor/Contractor represents and warrants that it, nor its employees or contractors, are not excluded from participation, and is not otherwise ineligible to participate, in a "federal health care program" as defined in 42 U.S.C. § 1320a-7b(f) or in any other government payment program. In the event Vendor/Contractor, or one of its employees or contractors, is excluded from participation, or becomes otherwise ineligible to participate in any such program during the Term, Vendor/Contractor will notify Town of Jay in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to the Vendor/Contractor, Town of Jay reserves the right to immediately cease contracting with the Vendor/Contractor.

If Vendor/Contractor is an Employment Agency, the Vendor/Contractor represents and warrants that its employees and contractors are not excluded from participation in a "federal health care program" as defined in 42 U.S.C. § 1320a-7b(f) or debarred from participation in any federal or other program.

The Vendor/Contractor further represents and warrants it will, at a minimum, check monthly all of its employees and subcontractors against:

The General Services Administration's Federal Excluded Party List System (or any successor system,

The United States Department of Health and Human Services's Office of the Inspector General's Lists of Excluded Individuals and Entities or any successor list,

The New York State Department of Health's Office of the Medicaid Inspector General's list of Restricted, Terminated or Excluded Individuals or Entities.

In the event an excluded party is discovered the Vendor/Contractor will notify Town of Jay in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to the Vendor/Contractor, Town of Jay reserves the right to immediately cease contracting with the Vendor/Contractor.

Cooperative Purchasing (Piggybacking)

Pursuant to General Municipal Law §103 and County Law §408-a, any political sub-division or fire company (as both are defined in Section 100 of the GML) or district authorized to make purchases of apparatus, materials, equipment or supplies, or to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment and supplies may make said purchases under this existing contract (Piggyback) provided, and on condition that this present

contract was **LET TO THE LOWEST RESPONSIBLE BIDDER**. Therefore, all terms and conditions under this contract are extended to other political sub-divisions and governmental entities.

Purchases under this contract by any other political sub-division other than Essex County shall be pursuant to the terms and conditions of Resolution No. 207 of 2013 dated July 1, 2013.

New York State Sexual Harassment Laws

Contractor certifies as to itself or its own organization, under penalty of perjury, that Contractor has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-g of the New York State Labor Law. A model policy and training has been created by the New York State Department of Labor and can be found here: <https://www.ny.gov/programs/combating-sexual-harassment-workplace>

TOWN OF JAY

PO Box 730, 11 School Street, Au Sable Forks, NY 12912

TELEPHONE: 518-647-2204 / TELEFAX: 518-647-5692

TITLE:

BID NUMBER:

**REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS – APPENDIX II TO 2 CFR PART 200**

Instructions:

1. All clauses must be initialed.
2. A notary is only required for one page.

Vendor agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted and agreed to on the following pages.

Vendor's Name / Company Name: _____

Address, City, State, and Zip Code: _____

Phone Number: _____ Fax Number: _____

Printed Name and Title of Authorized Representative:

Email Address: _____

Signature of Authorized Representative: _____

Date: _____

Federal Tax ID #: _____

SWORN to before me this _____ day of

_____, 20____

****Note: ALL Sections on the following pages must be initialed and this Statement must be signed before a Notary***

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The following provisions are required and apply when federal funds are expended by TOWN OF JAY for any contract resulting from this procurement process.

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when federal funds are expended by TOWN OF JAY, the Town reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to Federal Rule (B) above, when federal funds are expended by TOWN OF JAY, TOWN OF JAY reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor, in the event vendor fails to:

- (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order;
- (2) make any payments owed; or
- (3) otherwise perform in accordance with the contract and/or the procurement solicitation. TOWN OF JAY also reserves the right to terminate the contract immediately, with written notice to vendor, for convenience, if TOWN OF JAY believes, in its sole discretion that it is in the best interest of TOWN OF JAY to do so. The vendor will be compensated for work performed and accepted and goods accepted by TOWN OF JAY as of the termination date if the contract is terminated for convenience of TOWN OF JAY. Any award under this procurement process is not exclusive and TOWN OF JAY reserves the right to purchase goods and services from other vendors when it is in the best interest of TOWN OF JAY.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to Federal Rule (C) above, when federal funds are expended by TOWN OF JAY on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146- 3148) as supplemented by Department

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of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when federal funds are expended by TOWN OF JAY, during the term of an award for all contracts and subgrants for construction or repair, the vendor will be in compliance with all applicable Davis-Bacon Act provisions.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when federal funds are expended by TOWN OF JAY, the vendor certifies that during the term of an award for all contracts by TOWN OF JAY resulting from this procurement process, the vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

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Pursuant to Federal Rule (F) above, when federal funds are expended by TOWN OF JAY, the vendor certifies that during the term of an award for all contracts by TOWN OF JAY resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to Federal Rule (G) above, when federal funds are expended by TOWN OF JAY, the vendor certifies that during the term of an award for all contracts by TOWN OF JAY resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by TOWN OF JAY, the vendor certifies that during the term of an award for all contracts by TOWN OF JAY resulting from this procurement process, the vendor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency or by the State of Texas. Vendor shall immediately provide written notice to TOWN OF JAY if at any time the vendor learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. TOWN OF JAY may rely upon a certification of a vendor that the vendor is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless TOWN OF JAY knows the certification is erroneous.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Rule (I) above, when federal funds are expended by TOWN OF JAY, the vendor certifies

TOWN OF JAY
PO Box 730, 11 School Street, Au Sable Forks, NY 12912
TELEPHONE: 518-647-2204 / TELEFAX: 518-647-5692

TITLE:

BID NUMBER:

REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS – APPENDIX II TO 2 CFR PART 200

that during the term and after the awarded term of an award for all contracts by TOWN OF JAY resulting from this procurement process, the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, 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 the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal 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 contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certificate is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

(J) Procurement of Recovered Materials – When federal funds are expended by TOWN OF JAY, TOWN OF JAY and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to Federal Rule (J) above, when federal funds are expended TOWN OF JAY, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), the vendor certifies, by signing this document, that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the contract will be at least the amount required by the applicable contract specifications or other contractual requirements.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

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**REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
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(K) Required Affirmative Steps for Small, Minority, And Women-Owned Firms for Contracts Paid for with Federal Funds – 2 CFR § 200.321 – When federal funds are expended by TOWN OF JAY, Vendor is required to take all affirmative steps set forth in 2 CFR 200.321 to solicit and reach out to small, minority and women owned firms for any subcontracting opportunities on the project, including: 1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; 2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; 4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and 5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

**RECORD RETENTION REQUIREMENTS FOR CONTRACTS PAID FOR WITH FEDERAL
FUNDS – 2 CFR § 200.333**

When federal funds are expended by TOWN OF JAY for any contract resulting from this procurement process, the vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The vendor further certifies that vendor will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

CERTIFICATION OF COMPLIANCE WITH EPA REGULATIONS

**APPLICABLE TO GRANTS, SUBGRANTS, COOPERATIVE AGREEMENTS, AND
CONTRACTS IN EXCESS OF \$100,000 OF FEDERAL FUNDS**

When federal funds are expended by TOWN OF JAY for any contract resulting from this procurement process in excess of \$100,000, the vendor certifies that the vendor is in compliance with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

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**CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND
CONSERVATION ACT**

When federal funds are expended by TOWN OF JAY for any contract resulting from this procurement process, the vendor certifies that the vendor will be in compliance with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

Vendor certifies that vendor is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor

CERTIFICATION OF NON-COLLUSION STATEMENT

Vendor certifies under penalty of perjury that its response to this procurement solicitation is in all respects bona fide, fair, and made without collusion or fraud with any person, joint venture, partnership, corporation or other business or legal entity.

Does vendor agree? YES

_____ Initials of Authorized Representative of vendor