

**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 April 20th, 2026, for Qualified NY State Licensed Professional Engineers (PE) or Architects (RA) to design and engineer specification for the upgraded roofing insulation and high performance windows to improve energy efficiency. The goal is to reduce energy costs and improve building envelope at the Town Hall/ Community Center Building (30,000 sq. foot).

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

All proposals submitted in response to this notice shall be marked "Sealed Proposal- Town of Jay- RFP Engineering/Architectural Services" 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.

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, disadvantages and minority or women-owned business enterprises will be afforded equal opportunity to submit bids in response hereto.

Dated: April 1, 2026

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 qualified New York State licensed Professional Engineers (PE) or Architects (RA) to design and engineer specification for upgraded roofing insulation and high performance windows to improve energy efficiency. The goal is to reduce energy costs and improve building envelope performance with respect to the Town Hall/ Community Center building (30,000 sq. feet).

The services to be rendered are the design and preparations of specifications and oversight for (1) high performance triple pane units and (2) the design and preparations of specs and oversight of a super-insulated roof envelope with respect to the Town Hall/Community Center building (30,000 sq. feet) as detailed in the attachment at Schedule A-1.

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

Proposal submissions must be received by 2:00 P.M. on April 15<sup>th</sup> , 20236, an should be submitted to:

Carol Greenley-Hackel, Town Clerk

P.O. Box 730

11 School Street

AuSable Forks, New York 12912

All proposals submitted in response to this notice shall be marked “**Sealed Proposal- Town of Jay- RFP Engineering /Architectural Services**” 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 Proposal should be directed to Carol Greenly-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 May 31, 2026.

## **C. Scope of Work**

### **RFP**

This Request for Proposal request the services of a qualified New York State licensed Professional Engineer (PE) or Architects (RA) to design and engineer specification for upgraded roofing insulation and high performance windows to improve energy efficiency. The services to be rendered are the design specifications and oversight (1)

high performance triple paneled units and (2) the design and preparations of specs and oversight of a super-insulated roof envelope with respect to the Town Hall/Community Center building (30,000 sq. feet) as detailed in the attachment at Schedule A. -1

In addition to the engineering services, the firm will be asked to provide, at a minimum:

- Specifications request for vendor bid packages;
- Engineering design for vendor review;
- Material specifications;
- Cost estimates;
- Attend projects and review;
- Conceptual drawings, as needed;
- "as built" drawing, as needed;

This RFP is designed to provide interested proposals with sufficient information to submit proposals meeting minimal requirements, but it is not intended to limit a proposals content or exclude any relevant or essential data. Proposers are at liberty and encouraged to expand upon the specifications to evidence service capability under any agreement.

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 RFP for a qualified New York State licensed Professional Engineers (PE) or Architect (RA) services.

During the evaluation process, the Town reserves the right, where it may serve the Town best interest, to request additional information or clarifications from proposers or to allow corrections or errors or omissions.

#### **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 Specification (Schedule E) attached hereto.

## PROPOSAL REQUIREMENTS

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### A. General Requirements

1. **Inquires**- Inquires concerning the request for proposal 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, New York 12912

2. **Submission of Proposals**- The following material is required to be received by April 15, 2026, for a proposing firm to be considered:

#### **A. Technical Proposal** (Must include the following) :

- Title Page: Including 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.
- Funding Agency Experience: Respondents should state whether they are an DBE/MBE/WE or Section 3 business enterprise; if so, provide a copy a current DBE/MBE/WBE certification letter. Respondents may also cite previous project experience in working with DBE firms, cite any existing partnerships with DBEs or cite the planned DBE partnerships relevant to addressing requirements of this project & solicitation. If Respondents are planning to cite proposed DBE partnerships for this project (e.g., no existing contract vehicle), please provide contact information for reference checks with the appropriate point of contact for validation.
- **NO DOLLARS SHOULD BE INCLUDED IN THE TECHNICAL PROPOSAL.**

#### **B. Cost Proposal**

- Submit as a separate document.

#### **C. Sealed Dollar Cost Bid.**

- **Total All-Inclusive Maximum Price:** The dollar cost bid should contain all pricing information relative to provide the Services as described in the proposals. The total all-inclusive maximum price to be bid for each engagement is to contain all direct and indirect costs, including all out-of-pocket expenses.

The first page of the dollar cost bid should include the following information:

- a. Name of Firm
  - b. Certification that the person signing the proposal is entitled to represent the firm, empowered to submit the bid, and authorized to sign a contract with the County.
  - c. A Total All-Inclusive Maximum Price for the project.
- **Rates for Additional Services:** The second page of the dollar cost bid should include a cost per hour for additional services by job classification in case it should become necessary for the Town to request the company to render any additional services.

The Town will not be responsible for expenses incurred in preparing and submitting the technical proposal or the dollar cost bid. Such costs should not be included in the proposal.

- **Manner of Payment:** Progress payments will be made based on hours of work completed during the course of the engagement and out-of-pocket expenses incurred in accordance with the firm's dollar cost bid proposal. Interim billing shall cover a period of not less and a calendar month.

3. **General Requirements** – The purpose of the proposal is to demonstrate the qualifications, competence and capacity of the contractors seeking to undertake a project of the Town in conformity with the requirements of this request for proposals. As such, the substance of proposals with carry more weight than their form or manner of presentation. The proposal should demonstrate the qualifications of the firm and the particular staff to be assigned to this engagement.

The proposal should provide information on our firm's current workload, your ability to meet the project deadlines 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 point 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.

Proposers should send completed “technical” and “cost” proposals under separate cover.

4. **Qualifications and Experience**- The proposer should submit a resume with at least three (3) references pertaining to the scope of this RFP.
5. **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.
6. **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.

## EVALUATION PROCEDURES

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### 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 right to retain all proposals submitted and use of 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.

#### 7. Mandatory Elements

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

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

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

#### 9. Quality of Proposal (maximum 35 points)

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

#### 10. 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 deviations 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 Town 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 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 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 of 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.

#### 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 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 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. April 20<sup>th</sup>, 2026.

Q. Preliminary Design

The consultant shall conduct such field work they deem necessary to obtain the information to properly design the Work. This shall include recommendations for project design; prepare schematic plans for proposed buildings. Schematic Design to be submitted to the committee for review and approval. The consultant shall coordinate any regulatory/permitting review in conjunction with Essex County Community Resources, as required.

R. Final Design

Upon approval of the Schematic Plans, the consultant will provide Finalized Plans & Specifications for review. The consultant shall prepare all construction documents for purposes of bidding with Essex County.

S. Quality of Work

All work shall follow recognized professional practices and standards and meet the specifications required by local, state, and federal approval of the project's plans and specifications prior to the advertising the project for construction bidding. Additionally, the consultant shall work to meet all DBE, MBE, WBE, SDVOB, and Section 3 participation requirements and goals, as required for funding compliance. Davis-Bacon prevailing wage rate documentation is required for this project, as determined by DOL, and must be included with the bidding documents.

Q. Funding Agency Requirements

Award recipients must follow the guidance provided in Appendix A. All respondents must demonstrate capability to adhere to the following Funding Agencies' requirements:

- Davis-Bacon Related Acts (DBRA) Compliance
- Disadvantages Business Enterprises (DBE) & Minority Woman's Business Enterprises (MWBE) Compliance
- Section 3 Compliance
- Equal Employment Opportunity (EEO) Compliance
- Anti-Lobbying Policy
- NYS Sexual Harassment Prevention Certification
- Build America, Buy America (BABA)

**SCHEDULE A-1**

**Energy Audit and PHIUS Feasibility Study**

**Town of Jay  
Town Hall/Community Center**



Submitted by:

**L&S Energy Services, Inc.**

58 Clifton Country Road, Suite 203, Clifton Park, NY 12065

supported by:

**Northeast Projects, LLC**



PH-4: Super I  
Measure Descrip  
Passive House bu  
entire enclosure to  
comfort for the b  
eliminating

### PH-3: High Performance Glazing

#### Measure Description

The existing windows have double pane glass. Passive House windows and doors are typically triple-pane with thermally-broken frames and warm-edge spacers which significantly reduce heat loss and improve comfort. Their placement and shading strategies also help balance solar gains, contributing to passive heating in winter and reducing cooling loads in summer.

Windows and doors represent a significant portion of heat loss in existing buildings, particularly when they occupy large areas of the façade. Passive House design relies on high-performance glazing systems—typically triple-pane units with insulated frames and optimized solar heat gain coefficients—to reduce conductive losses while maintaining daylight and visual comfort.

For the Town Hall, upgrading existing windows to triple-pane units offer substantial energy savings due to the large window area. In addition to improved thermal performance, careful selection of solar heat gain coefficients is important to prevent overheating, particularly for tall glazing areas exceeding six feet in height. Where feasible and consistent with historic requirements, modest reductions in overall glazing area may further enhance performance.

#### Measure Notes

The PHIUS Window Comfort and Condensation Risk Assessment tool checks both the risk of condensation at the most conductive part of the window, the frame, and reveals that the maximum window U-value acceptable for PHIUS certification is 0.32 Btu/hr-ft<sup>2</sup>-°F.

Additionally, it tests the 'worst case' window comfort requirement for the tallest windows (gym) and reveals a maximum Whole-window U-value of 0.14 Btu/hr-ft<sup>2</sup>-°F. Because it is unlikely that a whole-window approach in the gym is cost-effective at that size with the required level of window detail, the project would need to provide supplemental 'window washing' heat at the windows to satisfy the PHIUS comfort requirement found in the certification guidebook appendix.

#### WUFI® Model Outputs

Heat load reduction is based on the upgrade from the existing estimated whole-window U-value of 0.51 Btu/hr-ft<sup>2</sup>-°F to a triple-pane thermally-broken window with a whole-window U-value 0.14 Btu/hr-ft<sup>2</sup>-°F. The SHGC values are assumed to remain at .4 SHGC.

| PH-3: High Performance Glazing |          |          |         |
|--------------------------------|----------|----------|---------|
| Heating Load                   | Baseline | Proposed | Savings |
| kBtu/h                         | 2,363    | 2,072    | 291 12% |

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**PH-4: Super Insulated Envelope - Roof**

**Measure Description**

Passive House buildings rely on a properly sized continuous insulation layer around the entire enclosure to drastically reduce heat loss and heat gain and to improve thermal comfort for the building occupants. By maintaining higher-than-code R-values and eliminating gaps in the thermal layer, the building achieves stable indoor temperatures with minimal mechanical input.

The vented attic already boasts 9.25" of cellulose insulation, which does not achieve passive levels of performance, but serves as a good starting point. This section should be filled as-needed at displaced areas and an additional 2.75" should be applied over the top of the existing cellulose increase the R-value 48.

The existing 'flat' roof has 1" of EPS insulation below the roof membrane which likely has deteriorated over time. Based on the condition of the existing insulation it can either be removed or encapsulated. It is recommended that 6" of Polyisocyanurate insulation is added at a minimum, achieving a new R-value of 38.

**Measure Notes**

Additional insulation may be required to pitch the roof appropriately. Re-roofing the flat roof also presents the opportunity to proactively anticipate onsite solar panels being installed, which is not a part of this project scope.

**WUFI® Model Outputs**

Heat load reduction is based on the improvement of the existing attic from R-37 to R-48 (U-0.026 Btu/hr-ft<sup>2</sup>-°F to U-0.02 Btu/hr-ft<sup>2</sup>-°F), and the flat roof from R-5 to R-38 (U-0.17 Btu/hr-ft<sup>2</sup>-°F to U-0.026 Btu/hr-ft<sup>2</sup>-°F).

| PH-4: Super Insulated Envelope - Roof |          |          |         |     |
|---------------------------------------|----------|----------|---------|-----|
| Heating Load                          | Baseline | Proposed | Savings |     |
| kBtu/h                                | 2,363    | 2,020    | 343     | 15% |

PH-3: High Performance Glazing

- o Estimates of probable costs were based on preliminary quotations of \$44/ft<sup>2</sup> from a local window manufacturer of PHIUS rated triple pane windows who were provided with a window take-off from the construction documents.
  - Costs for labor, which include demolition, installation, patching, and painting were based on engineering estimates (i.e., previous experience) of \$60/ft<sup>2</sup>.
  - Material costs for the patching, and painting were estimated at \$10/ft<sup>2</sup>.
  - The total takeoff of eight different sized windows consists of 3,647 ft<sup>2</sup>.

| PH-3: High Performance Glazing Costs |                  |                  |                  |
|--------------------------------------|------------------|------------------|------------------|
| Measure Cost Details                 | Material         | Labor            | Total            |
| Triple Pane Windows                  | \$160,468        | inc.             | \$160,468        |
| Demo/Patch/Paint                     | \$36,470         | \$218,820        | \$255,290        |
| <b>Total Measure Cost</b>            | <b>\$196,938</b> | <b>\$218,820</b> | <b>\$415,758</b> |



Feasibility Study  
Community Center

*Energy Audit and PHIUS Feasibility Study  
Town of Jay Town Hall/Community Center*

PH-4: Super Insulated Envelope - Roof

- o Estimates of probable costs were based on Means.
- o The flat roof sections totaling 11,068 ft<sup>2</sup> have \$10/ft<sup>2</sup> material rates and \$6/ft<sup>2</sup> labor rates.
- o The vented attic section is 3,882 ft<sup>2</sup> has a \$1.75/ft<sup>2</sup> material and labor rate.

| PH-4: Super Insulated Envelope - Roof Costs |                  |                 |                  |
|---|------------------|-----------------|------------------|
| Measure Cost Details                        | Material         | Labor           | Total            |
| Flat Roof - 6" Polyiso + Membrane           | \$110,680        | \$66,408        | \$177,088        |
| Vented Attic Cellulose                      | \$6,794          | \$6,794         | \$13,587         |
| <b>Total Measure Cost</b>                   | <b>\$117,474</b> | <b>\$73,202</b> | <b>\$190,675</b> |

Pages

- Others as required by Appendix A

**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' 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 subdivision 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>