

2+3

## TOWN OF PHILIPSTOWN

238 Main St. P.O. Box 155 Cold Spring, NY 10516

RICHARD SHEA, SUPERVISOR

(845) 265-3329

TINA M. MERANDO  
TOWN CLERK AND TAX COLLECTOR

NANCY MONTGOMERY, COUNCILWOMAN  
JOHN VAN TASSEL, COUNCILMAN  
DAVID MERANDY, COUNCILMAN  
MICHAEL LEONARD, COUNCILMAN

June 17, 2014

Ms. Doreen Holsopple  
Regional Representative, R8  
4 Burnett Boulevard  
Poughkeepsie, NY 12603

RE: Project ID A2302 Town of Philipstown sidewalk construction

Dear Doreen,

Attached please find the Town of Philipstown Project Information Sheet (PIS), MM Project Application Supplement and Smart Growth Act Criteria Checklist for the above named project.

If you find that you need any further information from our office please contact me at 845-265-5200.

Very truly yours,

Richard Shea  
Supervisor

List of the proposed Multi-Modal Projects that have been authorized by the Legislature or Governor

ID	Description	Allotment
A2302	Construct Sidewalk along the south side of County Route 17	\$100,000.00

Richard Shea  
initial



**Multi-Modal 2000 Program  
Project Information Sheet**

Project ID # A2302

1.) Name of Municipality or Organization Initiating Project :

Richard Shea  
Town of Philipstown

2.) Project Title

Construct Sidewalk along the south side of County Route 17

3.) Maximum MMP Reimbursement :

\$100,000.00

4.) Project Owner Name : Town of Philipstown.

5.) Municipal or Organization Contact :

Name\Title : Richard Shea, Supervisor

Organization: Town of Philipstown

Address: 238 Main St. PO Box 155

City\State\Zip: Cold Spring, New York 10516

E-mail Address (if any) : supervisor@philipstown.com

State Comptroller CFO Payee of Record:

Richard Shea  
Supervisor  
238 Main St  
Cold Spring, NY 10516

6.) Project Location: Fair St. Cold Spring, NY Putnam County Route 17 aka  
West Side of Road Route\Name( if applicable):  
From Mile Post: \_\_\_\_\_ To Mile Post: \_\_\_\_\_

7.) Project Description \Scope: See Attached #1

8.) Project Schedule by Project Phase:

PROJECT PHASE	COST			Beginning Date MM/YY	Ending Date MM/YY
	Federal	State	Local		
Preliminary Engineering		\$5,000.00		4/1/14	4/1/15
Right Of Way Acqulstion					
Construction		\$90,000.00		4/1/14	4/1/15
Construction Supervision\Inspection		5,000.00		4/1/14	4/1/15
Other					
<b>TOTAL :</b>		<b>\$100,000.00</b>			

9.) Eligible Project Type (Please check one):

- Highway Resurfacing       Bridge Rehabilitation       New Highway Const.       New Bridge Const.  
 Highway Reconstruction       Bridge Replacement       Interchange Const./Reconst.       Intersection Improvement  
 Port Storage Authority       Port Mat'l Equip       Berth Improvements       Rail Crossing Improvements  
 Rail Rehabilitation.       Rail Bridge Rehabilitation       Rail Signalization       Rolling Stock  
 New Rail Const.       Rail Equipment       Aviation (Is this project consistent with an approved Airport Layout Plan?  Yes  No)  
 Other (Please explain): Pedestrian Sidewalk

Signature of responsible Local Official : \_\_\_\_\_

*Richard Shea*

6/10/14  
DATE

Please print name and title:

Richard Shea

Supervisor

845) 265-5200

NAME

TITLE

TELEPHONE

## ATTACHMENT #1

#7 The installation of 1,750 feet of sidewalk along County Route 17 aka Fair St. to connect Main Street in the Village of Cold Spring to the Washburn trail head at Hudson Highland State Park, a popular hiking destination. This is part of the proposed Fjord trail project that would connect the Village of Cold Spring to the City of Beacon. This phase of the project addresses a long time concern for the safety of pedestrians walking along County Route 17 which currently has no sidewalk.

# Multi-Modal (MM) Project Application Supplement

[For completion by all nominated MM Project Sponsors]

On November 4, 2008, the New York State Division of the Budget (DOB) issued Bulletin B-1184. This Bulletin establishes guidelines for the implementation of Agency Contracts, Non-Personal Service, and Capital Spending Controls. B-1184 requires project sponsors to provide a compelling justification of need for the project and must describe the consequences should the request not be approved. This Pre-Approval is in addition to NYSDOT's routine eligibility determination, and prior approval must be obtained before engaging in any aspect of the Local contract agreement process. All MM capital project work and related Local expenditures are made solely at the Sponsor's risk until a contract is fully executed and approved by the Office of the State Comptroller (OSC).

MM PIN (from PIS): A2302 Contract # (if known): \_\_\_\_\_

1) Check all categories below that apply to this project:

Failure to reimburse this MM project will cause an immediate, demonstrable threat to public health or safety (see detailed justification below). See Attachment #2

Failure to reimburse this MM project directly violates a court order or Federal, State, or Local Law.

Failure to reimburse this MM project will result in a substantial reduction in Federal Aid.

Project critical to meeting the State's essential infrastructure needs, including the Local Agency's public transportation mission which supports that need.

2) Work Type (from PIS): Pedestrian Sidewalk Term (in years): 1

MM Dollar Allocation: \$ \$100,000.00 Actual State Reimbursement-to-Date: \$ \$0

Projected SFY 12-13 Total State Disbursements (thru 3-31-13): \$ 0

Projected SFY 13-14 Total State Disbursements (4-1-13 thru 3-31-14): \$ 0

Projected SFY 14-15 Total State Disbursements \$ 100,000

3) Project Description:

Construct sidewalk along the south side of County Rt. 17

4) Justification of Need: (Note: Provide details as to how it is essential to the State's infrastructure needs. Describe how the condition of essential infrastructure that, if allowed to deteriorate, would create a higher cost to the State.)

See Attachment #3

5) Identify consequences of Non-approval of this project's contract: (Note: Explain the potential for clear public safety or health issues arising if the project is not advanced.)

See Attachment #4

6) Indicate here if need is due to an emergency, flood or other natural disaster?

NA

7) Is project subject to a legally binding construction contract or one for which construction has already commenced?

The contract will be subject to a legally binding contract following the selection of a successful bidder.

Signature of Responsible Local Official: \_\_\_\_\_

Please print name & title: Richard Shea Supervisor ( 845 ) 265-5200

Name

Title

Telephone

## ATTACHMENT #2

#1 Failure to reimburse this MM project will cause an immediate, demonstrable threat to public health or safety.

### Justification Details

Putnam County Route 17 aka as Fair St. Cold Spring, NY is the route taken by all visitors to the Hudson Highlands State Park. A majority of the visitors are pedestrians coming by train from NYC. These visitors are the lifeblood of the tourism industry that supports the Villages of Cold Spring and Fishkill and the City of Beacon. The sidewalk will provide safe travel for pedestrians who arrive at the Cold Spring train station and wish to reach the hiking trail heads that connect all three above named municipalities. These trails have become some of the most popular destinations in America for day hikers. A recent count of people using the trails has put the number at over 2000 at one access point alone over the course of one weekend. This many people walking along the road to access the trails creates the potential for injury from pedestrians being struck by automobiles. The installation of a formal sidewalk to separate pedestrians from the traveled way will surely eliminate the potential for injury.

## ATTACHMENT #3

### 4. Justification of Need:

As part of the Hudson Highlands Fjord Trail this sidewalk project is a critical part of essential infrastructure to safely move pedestrians from the Cold Spring train station to the Beacon train station. The number of people visiting this part of the Hudson Valley as pedestrians increases each year and will continue to do so. Without safe travel for these pedestrian visitors the risk is that visitors will become discouraged and not visit, come by automobile and add to congestion and pollution or continue to use the current County Route 17 aka as Fair St. in Cold Spring without a sidewalk; an unsafe condition.

#### ATTACHMENT #4

Identify consequences of Non -approval of this projects contact:

The consequences of non-approval of this project are many. Currently the number of visitors that visit the Village of Cold Spring and the Hudson Highlands State park numbers in the tens of thousands each year. Currently they must make their way at their own risk on a road way that has no sidewalk. Often pedestrians will illegally walk along the railroad tracks to access the hiking trails. Another negative consequence will be the increase in vehicular traffic as people abandon walking the main route in and out of the Village and take to their cars instead. The potential for accidents involving pedestrians in this corridor can not be discounted. Many families come to the trail head and park at Little Stony Point via County Route 17. Recent improvements to Route 9D including a marked crosswalk support the connection of a sidewalk from County Route 17 to the trails and parkland. This project will support the Fjord trail that will ultimately connect the Town of Philipstown , Town of Fishkill and City of Beacon. The numbers of pedestrians walking along County Route 17 increase each year and will surely continue to do so as the connection between the three municipalities is also formalized.



**NYS DEPARTMENT OF TRANSPORTATION  
SMART GROWTH CHECKLIST**

PIN # A2302

**A. APPLICANT INFORMATION**

<b>1. APPLICANT'S FULL LEGAL NAME</b>	Town of Philipstown
<b>2. TITLE OF PROPOSED PROJECT</b>	Construct sidewalk along south side of County Route 17
<b>3. PROJECT LOCATION (Facility Name):</b> County Rt. 17 aka Fair St. Cold Spring, NY	<b>4. COUNTY:</b> Putnam
<b>5. AMOUNT OF STATE GRANT REQUESTED:</b>	\$100,000

**B. SMART GROWTH ASSESSMENT**

For each of the criteria below check:

- Yes – if the project is compliant with the criterion, explain why;
- No – if impracticable, and explain why in detail; or
- N/A – if not applicable, and explain why not.

If the rationale for claiming non-applicability or justification for continuing with the project despite non-compliance is longer than the space provided, additional sheets may be attached; please clearly mark which criterion is being answered in the additional sheets.

**A. Does the proposed project maintain existing infrastructure?**

Yes                       No                       N/A

*Explanation:* The project both maintains and enhances the existing County Route 17 roadway.

**B. Is the proposed project located in a municipal center?**

Yes                       No                       N/A

*Explanation:*  
The project continues the sidewalk from the center of the Village of Cold Spring to the trail heads at the Hudson Highlands State Park and the beginning of the proposed Fjord trail.

**C. Is the proposed project located in a developed area or an area designated for concentrated infill development in a municipally approved comprehensive land use plan, local waterfront revitalization plan and/or Brownfield opportunity area plan?**

Yes                       No                       N/A

*Explanation:*  
The project sidewalk runs through a residential area of Cold Spring. It is the furtherance of a route that begins at the Cold Spring waterfront which has a local waterfront revitalization plan.

D. Will the proposed project protect, preserve and enhance the State's resources, including agricultural land, forests, surface and groundwater, air quality, recreation and open space, scenic areas, and significant historic and archeological resources?

Yes

No

N/A

Explanation:

All work will be conducted with the consultation of the NYSOPHRP. By encouraging pedestrian travel the number of vehicle trips will be decreased. The connection via this sidewalk project to the trailheads in Hudson Highlands State Park will enhance the experience of park users.

E. Will the proposed project foster mixed land uses and compact development, downtown revitalization, Brownfield redevelopment, the enhancement of beauty in public spaces, the diversity and affordability of housing in proximity to places of employment, recreation and commercial development and the integration of all income and age groups?

Yes

No

N/A

Explanation: The project will bring people safely to the central downtown of the Village of Cold Spring. It will also make it more likely that people of all ages and abilities are able to walk safely along County Route 17. It will surely support the Fjord trail project which aims to connect Cold Spring, Fishkill and Beacon with the idea of enhancing tourism for each of these communities. The recreational opportunities that this sidewalk will connect pedestrians to are numerous as it terminates in the Hudson Highlands State Park.

F. Will the proposed project provide mobility through transportation choices including improved public transportation and reduced automobile dependency?

Yes

No

N/A

Explanation: The use of a safe sidewalk will encourage pedestrian travel and reduce the number of vehicle trips generated on County Route 17. There are currently plans to include this route in the local trolley route also thereby increasing the likelihood of the use of public transportation versus individual car use. The public health benefit of both safety and improved health from walking must be taken into account.

G. Will the proposed project involve coordination between state and local government and inter-municipal and regional planning?

Yes

No

N/A

Explanation:

See Attachment #5

H. Has there been participation in community based planning and collaboration on the project?

Yes

No

N/A

Explanation: The steering committee for the project has representatives from all the agencies named in Attachment #5. A planner has been hired to identify the route of the Fjord Trail and has pointed out the necessity of this sidewalk project.

I. Will the proposed project ensure predictability in building and land use codes?

Yes

No

N/A

This project is in keeping with all State and Local codes.

## ATTACHMENT #5

G. Will the proposed project involve coordination between state and local government and intermunicipal and regional planning?

This sidewalk project will be both independently useful and also be part of the larger Hudson Highlands Fjord Trail project. This projects goal is to offer a safe walking and biking route between the Village of Cold Spring, the Town of Philipstown, the Town of Fishkill and the City of Beacon. The concept for the Fjord Trail is that a pedestrian or cyclist could start at either the Cold Spring or Beacon train station and safely travel between the two stations along the Hudson. There is currently an intermunicipal agreement between the Town of Fishkill and the Town of Philipstown to work jointly on the Fjord project of which this sidewalk is a component. Overall the partnership involves NYS DOT, Metro North commuter railway, NYS OPHRP, Town of Fishkill, Town of Philipstown, Village of Cold Spring, City of Beacon, County of Putnam and Dutchess County.

Explanation:

J. Will the proposed project promote sustainability by strengthening existing and creating new communities which reduce greenhouse gas emissions and do not compromise the needs of future generations, by among other means encouraging broad based public involvement in developing and implementing a community plan and ensuring the governance structure is adequate to sustain its implementation?

Yes

No

N/A

Explanation: See Attachment #6

### CERTIFICATION

I hereby certify, to the best of my knowledge, all of the above to be true.

Preparer of This Document:

Richard Shea  
Signature

6/9/14  
Date

Richard Shea  
Printed Name

Supervisor Town of Philipstown  
Title

Responsible Local Official:

Richard Shea  
Signature

6/9/14  
Date

Richard Shea  
Printed Name

Supervisor, Town of Philipstown  
Title

## ATTACHMENT #6

J. Will the propose project promote sustainability by strengthening existing and creating new communities which reduce greenhouse gas emissions and do not compromise the needs of future generations, by among other means encouraging broad based public involvement in developing and implementing a community plan and ensuring the governance structure is adequate to sustain its implementation?

This project is part of a large regional project that looks to connect two counties and three municipalities. It will reduce greenhouse gas emissions by promoting cycling and pedestrian modes of transportation. It is the vision of this project to be transformative for both County Route 17 and the adjacent Route 9D corridor. With the inclusion of Putnam and Dutchess County, Towns of Fishkill and Philipstown, Village of Cold Spring, City of Beacon, NYS DOT, NYSOPHRP, Metro North railroad, Scenic Hudson, the Open Space Conservancy, Friends of Fahnstock, the NY/NJ Trail conference and Little Stony Point Citizens Association the success in future governance and broad public participation is guaranteed.





STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
REGION EIGHT  
4 BURNETT BOULEVARD  
POUGHKEEPSIE, NEW YORK 12603  
WWW.NYS DOT.GOV

WILLIAM J. GORTON, P.E.  
REGIONAL DIRECTOR  
November 13, 2014

JOAN McDONALD  
COMMISSIONER

Mr. Richard Shea, Supervisor  
Town of Philipstown  
238 Main Street  
Cold Spring, NY 10516

RE: TOWN OF PHILIPSTOWN  
MULTI-MODAL #2 PROJECT PIN 8MA2302.30A

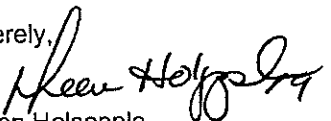
Dear Mr. Shea:

This is to advise you that the Multi-Modal #2 project identified in the Schedule A of the enclosed Master Municipal Multi-Modal (MM) Capital Project Agreement has been officially approved for funding. The next step in the approval process is the joint execution of this agreement between NYSDOT and the Town of Philipstown.

Reimbursement cannot occur before this contract is fully executed and approved by the State Comptroller. NYSDOT does not require a Local Resolution for the funding of municipally-owned highway, bridge, or aviation mode projects of \$1,000,000 or less. Enclosed are five (5) copies of the Master Agreement and Schedule A. This Master Agreement must be signed and notarized, **and each Schedule A must be signed**. Please make sure that each copy of the Agreement is signed in the appropriate places and return all five signed copies to the Regional Local Projects Unit.

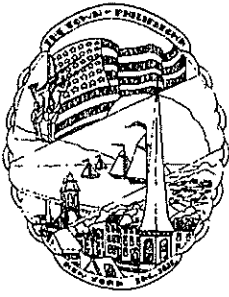
Also enclosed is a standard Multi-Modal Sponsor's Payment Request Form (FIN 421mm). Upon the return to you of your copy of the fully-executed Agreement, complete the payment request form for any eligible expenditure that has been made. Submission of your completed form to the Local Projects Unit will enable you to obtain reimbursement for these expenditures. You may duplicate or otherwise reproduce this form as often as needed. Reimbursements may not exceed the approved or actual eligible Multi-Modal project costs, whichever is less.

If you have any questions regarding the Multi-Modal Program, please feel free to call me at (845) 431-5977 or e-mail me at [doreen.holsopple@dot.ny.gov](mailto:doreen.holsopple@dot.ny.gov)

Sincerely,  
  
Doreen Holsopple  
Administrative & Financial Advisor  
Region 8 Local Projects Unit

*Rec'd 11/18/14*

Enclosures



# TOWN OF PHILIPSTOWN

238 Main St. P.O. Box 155 Cold Spring, NY 10516

RICHARD SHEA, SUPERVISOR

(845) 265-3329

TINA M. MERANDO  
TOWN CLERK AND TAX COLLECTOR

NANCY MONTGOMERY, COUNCILWOMAN  
JOHN VAN TASSEL, COUNCILMAN  
DAVID MERANDY, COUNCILMAN  
MICHAEL LEONARD, COUNCILMAN

December 1, 2014

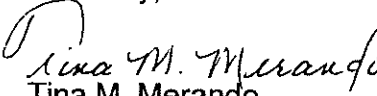
Ms. Doreen Holsopple  
Administrative & Financial Advisor  
State of New York  
Department of Transportation  
Region Eight  
4 Burnett Boulevard  
Poughkeepsie, NY 12603

**RE: Multi-Modal #2 Project Pin 8MA2302.30A**

Dear Ms. Holsopple:

Attached please find five (5) executed agreements with regard to the above noted project. If you have any questions, please contact my office during regular business hours. Thank you.

Sincerely,

  
Tina M. Merando  
Town Clerk

TMM

cc: file

enclosures (5)



**NYS DEPARTMENT OF TRANSPORTATION**  
**Multi-Modal (MM) #2 or #4 Sponsor's Project Payment Request** UnivFIN 421mm (10/05)

**PAYEE ID#** \_\_\_\_\_ **NYS Contract No.** \_\_\_\_\_ **Request Sequence #** \_\_\_\_\_

For "Payee ID": Municipalities use OSC Municipal Code; Non-Municipalities use their Federal Employer ID Number (FEIN).

**IMPORTANT: List PIN#(s) for individual project(s) on reverse side for each reimbursement requested !**

**Multi-Modal Program Fund Source (check one that applies):** \_\_\_ MM #2 \_\_\_ MM #4

**PAYEE INVOICE #:** \_\_\_\_\_ **Work Period Covered (for this estimate) FROM** \_\_\_/\_\_\_/\_\_\_ **TO** \_\_\_/\_\_\_/\_\_\_

**Payee/Project Sponsor/Owner Name:** \_\_\_\_\_

Street Address \_\_\_\_\_

**Current Completion Date** \_\_\_/\_\_\_/\_\_\_

City \_\_\_\_\_

**MIR Date** \_\_\_/\_\_\_/\_\_\_  
(completed by NYSDOT for approved M.A.P.)

State \_\_\_\_\_ NY \_\_\_\_\_ Zip Code \_\_\_\_\_

**Original MM Contract Amount: \$** \_\_\_\_\_

**Current MM Contract Amount: \$** \_\_\_\_\_

	<b>Project Sponsor Prepares</b>	<b>NYSDOT Use Only</b>
1. Total work reported on previous payment requests (See Column "B" on reverse side)	_____	_____
2. Work reported on this payment request (See Column "A" on reverse side)	_____	_____
3. Total work reported to date (See Column "C" on reverse side)	_____	_____
4. Adjustments (for NYSDOT use only) Reason _____	_____	_____
5. Previous payments	_____	_____
6. Payment requested or processed	_____	_____

**PROJECT SPONSOR CERTIFICATION**

I, \_\_\_\_\_, do hereby certify that I am the \_\_\_\_\_ of \_\_\_\_\_ (Name) (Title)

Project Sponsor for the work referred to in the foregoing payment request; that I am the person in whose name the foregoing account against the State of New York is rendered; that the labor, materials, expenses or services charged for were actually delivered, incurred or rendered and that the prices charged are just and reasonable; that the expenses detailed herein were actually incurred; that the services specified were actually rendered as charged; and further, that no percentage or compensation has been paid or promised to be paid to any manager, trustee, officer or employee of said agency, corporation, institution, department, board, commission or related person by reason of the claimant having been allowed to sell to, incur expense for, or render services thereto also, to the best of my knowledge and belief, no manager, trustee, officer or employee of said agency, corporation, institution, department, board, commission or related person has or has had any interest directly or indirectly in said article, materials, expenses or services; that no part of the foregoing account has been paid, and that the above statement is true and correct.

I specifically certify that the project costs herein identified (see individual PIN-specific amount(s) listed on reverse side) meet all Multi-Modal (MM) funding eligibility requirements under the subject contract and eligible fund source, which include: (1) that the service life of each individual project is ten (10) or more years, (2) that project work was performed in accordance with the State Environmental Quality Review Act (SEQRA), (3) for highway & bridge mode projects, that (a) MM funding is not used for the mandated non-Federal matching share of a Federally funded Highway or Bridge project, (b) the amount of MM funds requested is and shall be no greater than prior unreimbursed municipal project expenditures for work completed or materials incorporated in a qualifying project(s), and (c) that the amount of municipal funds appropriated for transportation capital projects is not and shall not be reduced because of the MM funding, (4) for any Airport or aviation facility type, that Federal funding is not available to the Project, but the Project is consistent with an approved airport layout plan. I further certify that the total amount claimed herein is for unreimbursed capital project monies which were expended on or after April 1, 2000 (for MM#2) or April 1, 2005 (for MM#4) as authorized by Section 14-k of the Highway Law.

\_\_\_\_\_  
DATE SIGNATURE ( ) TELEPHONE NO.

**CERTIFICATION BY NYS DEPT. OF TRANSPORTATION**

I, \_\_\_\_\_, do hereby certify that I am the \_\_\_\_\_ and \_\_\_\_\_ (Name) (Title)

have reviewed the payment request and to the best of my knowledge find them to be acceptable statements of the expenditures made and of the amount of payment due. When necessary, the project has been inspected for assurance that the work and material used are in reasonable conformity to approved plans and specifications.

\_\_\_\_\_  
DATE SIGNATURE ( ) TELEPHONE NO.

**NYS DEPARTMENT OF TRANSPORTATION  
Multi-Modal (MM) #2 or #4 Sponsor's Project Payment Request**

Project ID Number(s) "PIN #"	MODE (H)wy or Bridge (P)ort or Ferry (R)ail (A)irport	Current Reimbursement Amount Requested "A" [Line #2 on Other Side]	Total of all Previous Payments "B" [Line #1 on Other Side]	Combined Payment(s) Due to Project (Life-to-Date) "C" ("A" + "B") [Line #3 on Other Side]	MM Project Budget Amount Allocated "D"	Amount of Budget Balance Remaining "E" ("D" - "C")	Initial Here if Final Payment
		\$	\$	\$	\$	\$	
1st Project			Title/Description:				
		\$	\$	\$	\$	\$	
2nd Project			Title/Description:				
		\$	\$	\$	\$	\$	
3rd Project			Title/Description:				
		\$	\$	\$	\$	\$	
4th Project			Title/Description:				
		\$	\$	\$	\$	\$	
5th Project			Title/Description:				
		\$	\$	\$	\$	\$	
6th Project			Title/Description:				
		\$	\$	\$	\$	\$	
7th Project			Title/Description:				
		\$	\$	\$	\$	\$	
8th Project			Title/Description:				
		\$	\$	\$	\$	\$	
		\$	<b>= TOTAL WORK REPORTED ON THIS PAYMENT REQUEST [See Line 2 on other side]</b>				

**Master Municipal Multi-Modal (MM) Capital Project(s) Agreement**  
For Use Only with Municipally-owned Highway, Bridge, or Aviation projects where  
a State Comptroller (OSC) approved contract is required

[Note: A separate contract is required for each individual Multi-Modal Program source]

***NYS COMPTROLLER'S CONTRACT NO. D018836***

THIS AGREEMENT made this 20th day of November, 2014, is between the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, New York 12232 and the **Town of Philipstown** (the Sponsor), with offices at **238 Main Street, POB 155, Cold Spring, Putnam County, NY 10516**, to provide for the reimbursement of costs incurred by the municipality for the construction, reconstruction, improvement, reconditioning and preservation of a project or projects included in Schedule A or Supplements to Schedule A within the Multi-Modal Programs, consisting of one or more County, Town, City, and Village road, highway, parkway, bridge or aviation capital project or projects, as described for the purposes of this agreement in Schedule A or Supplements to Schedule A hereof (the "Project"). The amount of NYSDOT's funding pursuant to this Agreement shall be limited to Project Eligible Costs actually incurred, in no event to exceed the amount(s) identified in Schedule A.

***WITNESSETH:***

WHEREAS, section 14-k of the Transportation Law establishes the Multi-Modal (MM) Programs that may fund eligible project costs through the bond funding (as applicable) for capital projects approved by the Commissioner of Transportation, and

WHEREAS, pursuant to Legislative appropriation or authorization for capital projects, that MM funding of the Project(s) herein is authorized and, the Sponsor certifies to NYSDOT that:

- (1) the service life of each individual Project is ten (10) or more years, regardless of mode; and
- (2) for highway and bridge mode projects, (a) MM program funding is not used for the mandated non-Federal matching share of a Federally funded project; (b) the amount of MM funds requested is and shall be no greater than prior unreimbursed municipal project expenditures for work completed or materials incorporated in a qualifying project(s); and (c) the amount of municipal funds appropriated for transportation capital projects is not and shall not be reduced because of the MM program funding; and
- (3) for any airport or aviation facility type, the sponsor must certify that Federal funding is not available to the project, but that the project is consistent with an approved Airport Layout Plan.

NOW THEREFORE, the parties agree as follows:

1. *Documents Forming this Agreement.* The agreement consists of the following:

Agreement Form - this document titled Master Municipal Multi-Modal Capital Project(s) Agreement is for Use Only with Municipally-owned Highway, Bridge, or Aviation projects where a State Comptroller-approved contract is required;

Multi-Modal Program Schedule "A" - Detailed individual Project Description(s) and Funding; and

Appendix "A" - New York State Required Contract Provisions.

Appendix "A-1" – Supplemental Title VI Provisions (Civil Rights Act)

**Universal Master Municipal MM Agreement**  
**Municipal Sponsor: Town of Philipstown**

2. *Work, Maintenance & Operation.* Sponsor shall render all services and furnish all materials and equipment necessary to complete the Project or projects described in Schedule(s) A or Supplements to Schedule A and shall fund all costs attendant to such completion. The work of the Project or projects may consist generally of the categories of work described in Schedule A or one or more Supplemental Schedules A as may hereafter be executed by the parties hereto and approved as required for a State contract, and any additions or deletions made thereto by NYSDOT subsequent to the execution of such Schedules A or Supplements to Schedule A for the purposes of conforming to New York State requirements. Upon Project completion, Sponsor will operate and maintain the Project(s) at no expense to NYSDOT and Sponsor will not dispose of or encumber the Project(s) or cause the Project(s) to be withdrawn from public service during its useful service life without the prior approval of NYSDOT.

3. *Multi-Modal (MM) Funding Reimbursement of Eligible Project Costs.* Subject to compliance with this Agreement, NYSDOT agrees to authorize reimbursement of individual Project costs identified in the applicable Schedule A or Supplements to Schedule A attached hereto in an amount not to exceed the lesser of the indicated MM program funding amount or actual Eligible Project Costs, as defined below. MM program funding shall be used solely for the payment of Eligible Costs the Sponsor actually incurs in performing the Project. Only Eligible Project Costs, paid no more than 15 months prior to the date of execution of the Multi-Modal Program Reimbursement Request Form are reimbursable. To be eligible for MM aid, "Eligible Project Costs" must: (a) be eligible pursuant to • 3.1 below and such other MM program Policies and Criteria as are established by NYSDOT including but not limited to NYSDOT's MM Program Guidelines criteria; and, (b) be for work which, when completed, has a certifiable service life of at least 10 years.

3.1. *Eligible Costs.* Eligible Project costs include costs of acquisition, construction, repair, reconstruction, renovation, equipment and other related costs as set forth in the Project Description in Schedule A or Supplements to Schedule A. Eligible Project costs may also include the reimbursement of salaries and wages to employees of Sponsor for carrying out the Project(s); fees to consultants and professionals retained by Sponsor for planning and performing the Project, and such other costs and expenses directly related to such employees, consultants and professionals for the Project.

3.2. *Sponsor Debt Service.* Multi Modal program funds shall not be used to pay a Sponsor for interest (debt Service) or issuance (indirect costs) payments on Multi Modal projects for which the sponsor issued a local bond or note to finance the first instance local portion. Multi Modal funds can be used to reimburse a Sponsor for payments of the principal portion of a local bond or note which a Sponsor might issue to pay for the construction of a capital project.

4. *Payment.* Payments hereunder shall be as follows:

4.1. *Payment Upon Completion.* Except where •4.2 applies, payment to Sponsor shall be made upon the application of Sponsor to NYSDOT upon Project completion, on the basis of work accomplished, local expenditures made, and the submission of duly completed payment requests and certifications in a form approved by NYSDOT, including such information as NYSDOT deems necessary to assure compliance with the program requirements and this Agreement.

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4.2. *Periodic Reimbursement.* If the Sponsor and NYSDOT find it desirable to have reimbursement made periodically in accordance with a payment cycle established by NYSDOT and the Sponsor, NYSDOT may authorize payments based on billings prepared by the Sponsor in accordance with NYSDOT requirements, based on costs incurred as disclosed by the records thereof, as required by the Project or projects, with applicable adjustments to be made after audit by NYSDOT. These payments shall be made as moneys become available therefor.

4.3. *Certifications.* In addition to the certifications on Page 1 of this contract, the Sponsor shall also certify in each payment request that individual Project work was performed in accordance with the design and contractual requirements of Sponsor and Sponsor's design professional, and that such request does not duplicate reimbursement of costs and services received from other sources. Such certification by the project sponsor shall include the responsibility to furnish the Commissioner with any written information as may be necessary to maintain, if applicable, the federal tax exempt status of bonds, notes, or other obligations issued for such purposes.

4.4. *Electronic Contract Payments.* Municipality/Sponsor shall provide complete and accurate supporting documentation of eligible Local expenditures as required by this contract, NYSDOT and the State Comptroller. Following NYSDOT approval of such supporting documentation, payment for invoices submitted by the contracting Municipality/Sponsor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The contracting Sponsor shall comply with the State Comptroller (or applicable Public Authority) procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by E-mail at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us), or by telephone at (518) 474-4032. For referral to applicable Public Authority electronic payment registration procedures for certain State funded payments, Local Sponsors should refer to the cover letter instruction included with this document or, otherwise, contact their Regional NYSDOT Local Programs Liaison. The contracting Municipality/Sponsor herein acknowledges that it will not receive payment on any invoices submitted under this Contract agreement if it does not comply with the State Comptroller (or applicable Public Authority) electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

5. *Ethics Considerations.* In addition to Sponsor's conforming with the applicable provisions of Public Officers Law §73 (Business or Professional Activities by State Officers and Employees and Party Officers) and General Municipal Law §806 (Code of Ethics) as related to the expenditure of the MM Funding made hereunder, no member of Sponsor's governing body, its officers or employees, nor any member of their families shall benefit financially either directly or indirectly from the MM Funding unless such action is otherwise in accordance with law and is necessary for the accomplishment of the Project. In such event, Sponsor shall disclose such relationship to NYSDOT and shall obtain prior written approval therefore from NYSDOT.

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6. *NYSDOT Performance Review.* NYSDOT may review the Sponsor's performance of this agreement in such manner and at such times as NYSDOT shall determine, and such review may include field visits by NYSDOT representatives to the Project or projects and/or the offices of Sponsor. Sponsor shall at all times make available its employees, records and facilities to authorized NYSDOT representatives in connection with any such review. Such review shall be for the purpose, among other things, of ascertaining the quality and quantity of Sponsor's performance of the Project or projects, its use and operation.

7. *State Recovery of Ineligible Reimbursements.* NYSDOT shall be entitled to recover from the Sponsor any monies paid to the Sponsor pursuant to this Agreement which are subsequently determined to be ineligible for funding hereunder.

8. *Contract Executory.*

8.1. This Agreement shall be deemed executory only to the extent of money available to the State for its performance and no liability on account thereof shall be incurred by the State beyond money available therefore.

8.2. This agreement shall remain in effect so long as State funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a State budgetary hiatus will not by itself be construed to lapse this agreement, provided any necessary State appropriations or other funding authorizations therefore are eventually enacted. Sponsor's continued performance during such a budgetary hiatus cannot, by itself, obligate the State to making expenditures without appropriations.

9. *Sponsor Liability.*

9.1. Sponsor shall be responsible for all damage to person or property arising from any act or negligence performed by or on behalf of the Sponsor, its officers, agents, servants or employees, contractors, subcontractors or others in connection with this Agreement. The Sponsor specifically agrees that its agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

9.2. The Sponsor shall indemnify and save harmless NYSDOT & the State for all damages & costs arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Sponsor, its officers, agents, servants, employees, contractors, subcontractors or others under this agreement. Negligent performance of service, within the meaning of this section shall include, in addition to negligence founded upon tort, negligence based upon the Sponsor's failure to meet professional standards & resulting in obvious or patent errors in the progression of its work.

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10. *No Assignment or Transfer of Contract.* Sponsor agrees not to assign, transfer, convey, sublet or otherwise dispose of this contract or any part thereof, or of its right, title or interest therein, of its power to execute such contract to any entity, public or private, without the previous written consent of NYSDOT first having been obtained.

11. *Independent Contractor.* The officers and employees of the Sponsor, in accordance with the status of the Sponsor as an independent contractor, covenant and agree that they will conduct themselves consistent with such status, that they will neither hold themselves out as nor claim to be an officer or employee of the State by reason hereof, and that they will not by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State, including, but not limited to, Workers' Compensation coverage, Unemployment Insurance benefits, Social Security or Retirement membership or credit.

12. *Disqualification and Damages.* If the Sponsor fails to comply completely with any of the terms and conditions contained within this agreement, including, but not limited to paragraphs 2 and 10, in their entirety at any time, the project shall be disqualified. If the project is disqualified the Sponsor must refund all funds received under this agreement to NYSDOT, and also pay to NYSDOT a liquidated damage fee of 5% of the total funds received under this agreement.

13. *Term of Agreement.* As to the Project or projects described in Schedule(s) A, this agreement takes effect as of the date of this Master Agreement as first above written. This agreement takes effect consistent with the date of Project work established and described in any duly executed and approved Schedule A or Supplements to Schedule A. Failing Project completion within the period set forth in Schedule A or Supplements to Schedule A, or agreement by NYSDOT to extend a Project completion date for good cause, this Agreement will expire and be of no further force or effect. This agreement shall only remain in effect so long as Multi-Modal funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a State budgetary hiatus will not by itself be construed to lapse this agreement, provided any necessary State appropriations or other funding authorizations therefore are eventually enacted.

14 *Reporting Requirements.* The Municipality/Sponsor agrees to comply with and submit to NYSDOT in a timely manner all applicable reports required under the provisions of this Agreement and the Multi-Modal guidelines and in accordance with current Federal and State laws, rules, and regulations.

15 Appendix A, standard provisions for all New York State Contracts, is attached hereto and is hereby made a part of this agreement as if set forth fully herein.

16. *Compliance with legal requirements.* Sponsor must comply with all applicable federal, state and local, laws, rules and regulations, including but not limited to the following:

16.1 *New York State Executive Law Article 15-A, Participation by Minority Group members and Women with Respect to State Contracts,* including the requirements there under related to equal employment opportunity and utilization goals for contracting opportunities for minority and women-owned business enterprises. Sponsor's failure, to comply with Article 15-A

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- requirements in any of its contracts and sub-contracts funded in whole or in part by this agreement, without prior written approval from NYSDOT approval, violates the contract and the Department may, at its discretion: (1) cancel, terminate or suspend this agreement or such portion of this agreement or (2) assess liquidated damages in the amount of up to 20% of the portion of any of the Sponsor's contracts and sub-contracts funded in whole or in part by this agreement, to which contract goals are established.
- 16.2 *New York Environmental Law, Article 6, the State Smart Growth Public Infrastructure Policy Act*, including providing true, timely and accurate application information related to the project to ensure compliance with the Act.
- 16.3 *New York Transportation Law, Section 427, Equal employment opportunity program*, including the requirements thereunder related to equal employment opportunity and required contract provisions for inclusion in any of the Sponsor's contracts and sub-contracts funded in whole or in part by this agreement
17. *Compliance with procedural requirements.* Sponsor understands that funding is contingent upon the Sponsor's compliance with the applicable requirements.
18. *Notice Requirements.*
- 18.1 All notices permitted or required hereunder shall be in writing and shall be transmitted either (1) Via certified or registered United States mail, return receipt requested; (2) By facsimile transmission; (3) By personal delivery; (4) By expedited delivery service; or (5) By e-mail.
- 18.2 For all Multi-Modal Local Agreement purposes, such notices shall be addressed by the Sponsor to the officially designated Regional Local Program Liaison (RLPL) named in NYSDOT's initial request for a detailed Project "PIS" Application and, by NYSDOT, to the officially designated Primary Sponsor's Contact designated by formal Legislative Project Nomination, or to such different parties and addresses as the parties may from time-to-time mutually agree to designate. The parties herein agree to exchange such contact information above which shall include Organization Name, Individual Name & Title, Mailing Address, Telephone number, Facsimile number, & E-mail address.
- 18.3 Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States Mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
- 18.4 The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.



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IN WITNESS WHEREOF, NYSDOT has caused this Agreement to be signed by its authorized representative and Sponsor has caused this Agreement to be signed by its duly authorized officer, to be effective on the date first written above.

X  
Sponsor:  
BY: Richard Shea  
TITLE: Supervisor  
DATE: 11-20-2014

New York State Department of Transportation:  
BY: \_\_\_\_\_  
for the Commissioner of Transportation  
Agency Certification: In addition to the acceptance of this contract, I also certify the original copies of this signature page will be attached to all other exact copies of this contract.  
DATE: \_\_\_\_\_

Sponsor ACKNOWLEDGMENT

STATE OF NEW YORK )  
 )ss.:  
COUNTY OF PUTNAM )

On this 20th day of November in the year 2014 before me, the undersigned, personally appeared Richard Shea, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, acknowledged to me that he/she is the Supervisor of the Town of Philipstown, executed such instrument in his/her capacity pursuant to authority duly vested in him/her by Town Board and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

TINA M. MERRANDO  
NOTARY PUBLIC, STATE OF NEW YORK  
REG. NO. 01MES079331  
QUALIFIED IN PUTNAM COUNTY  
COM. EXPIRES JUNE 9, 2015

Tina M. Merrando  
Notary Public

\_\_\_\_\_

APPROVED AS TO FORM:  
BY: \_\_\_\_\_  
New York State Attorney General

APPROVED:  
BY: \_\_\_\_\_  
For the State Comptroller pursuant to Section 112, State Finance Law

## Master Municipal MULTI-MODAL Program ■ SCHEDULE A

(This Schedule may not be used where other Multi-Modal, State or Federal funding sources co-exist)

1. Name of Municipal Project Owner: Town of Philipstown
2. Project Title: Construct Sidewalk along the south side of County Route 17
3. MM Project ID#: 8MA2302.30A MM Program ID: MM2
4. Maximum MM Project Reimbursement (under this Agreement): \$100,000
5. MASTER Municipal MM OSC Contract #: D018836

6. Municipal Contact:

Name/Title: Richard Shea, Supervisor  
Organization: Town of Philipstown  
Address: 238 Main Street, POB 155  
City/State/Zip: Cold Spring, NY 10516

7. Project Location: Putnam County Route 17 aka Fair Street, Cold Spring

From: Main Street in the Village of Cold Spring To: Washburn trail head at Hudson Highland State Park

8. Project Description/Scope: Installation of 1,750' of sidewalk along the west side of County Route 17 aka Fair Street to connect Main Street in the Village of Cold Spring to the Washburn trail head at Hudson Highland State Park.

9. Project Schedule Beginning Date: April 2014 Project Ending Date: April 2020

10. Project Cost Summary:

SUMMARY COST TOTAL:	State Multi-Modal Funding under this Schedule A	Local Funding (Insert Zero if None)
\$100,000	\$100,000	\$0.00

11. Eligible Project Type: (Please check one)

- Highway Resurfacing       Bridge Rehabilitation       New Highway Construction       New Bridge Construction  
 Highway Reconstruction       Bridge Replacement       Interchange Const./Reconstruction       Intersection Improvement  
 Aviation (Is this project consistent with an approved Airport Layout Plan)?       Yes     No

Other (Please explain): construction of sidewalks.

12. Signature of responsible Local Official:  Date: 11-20-14

13. Please print your Name & Title here: Richard Shea, Supervisor

14. Please list your area code & phone number here: 845-265-5200

**APPENDIX A**

**STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

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

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## **STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended,

exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service

contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.**

In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, 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 (50 USC App. Sections 2401 et seq.) 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 State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

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

**10. 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"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have

access to the Records during normal business hours at an office of 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 State 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 State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

#### **11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.**

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation

and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

#### **12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.**

In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of

compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

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

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in



compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS).** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS).** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

**22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action

is in the best interest of the State.

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

## **APPENDIX A-1: SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)**

### *To be included in all contracts*

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (b.) cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.