

REQUEST FOR PROPOSAL  
Classification and Compensation  
Study

May 16, 2022

**2022 Request for Proposals for a  
Classification and Compensation Study**

Tioga County, NY has issued this Request for Proposal for the purpose of selecting a qualified firm to review and update its compensation and job classifications for all salaried non-unionized Management/Confidential employees and positions. The selected firm is expected to perform an analysis of current job classifications, salary and benefit structure relative to comparable positions in comparable organizations as well as internal comparison. A detailed scope of services is included.

Proposals must be submitted no later than 3 p.m. on Friday, June 3, 2022. Firms must submit four (4) completed hard copies, one digital copy and shall be submitted in a sealed envelope clearly marked "Proposals for Classification and Compensation Study." Proposals shall be mailed or hand delivered to:

Tioga County Personnel  
Re: Proposal for the County of Tioga  
Compensation Study  
Attention: Personnel Officer  
56 Main Street – Room 206  
Owego NY 13827

All proposals submitted must include all the information and documents as requested in this Request for Proposals. No oral or electronic proposals, including those sent by facsimile or via e-mail, will be accepted or considered. All proposals received after the submittal time will be rejected and returned unopened. The County reserves the right to reject any or all proposals and to waive any informality. Proposal packets are available online at [www.tiogacountyny.com](http://www.tiogacountyny.com) or at the Tioga County Personnel Department, 56 Main Street Rm 206, Owego NY 13827.

Proposals will be opened and evaluated in private and the proposal information will be kept confidential until an award is made.

Questions or clarifications on the proposal documents need to be submitted to the County in writing by 5:00 PM on May 25, 2022. Addendums issued as part of the Request for Proposals are to be initialed by the proper person and submitted as part of the delivery of the proposal package. Correspondence shall be addressed to:

Tioga County Personnel Officer  
56 Main Street – Room 206  
Owego, NY 13827  
Or emailed to: [personnel@tiogacountyny.gov](mailto:personnel@tiogacountyny.gov)

Award of Contract: The Tioga County Legislature will make the final award of the proposal or contract.

# SPECIFICATIONS

## I. Conditions

1. The firm is responsible for being familiar with all conditions, instructions, and documents governing this contract. Failure to make such preparations shall not excuse the firm from performance of the duties and obligations imposed under the term of this contract.
2. The firm further understands and agrees that if their proposal is accepted, they are to furnish and provide all labor, materials, tools and equipment necessary as specified in this agreement.
3. The firm will not be reimbursed by the County for any costs involved in the preparation and submission of the proposal or in the preparation for and attendance at subsequent interviews.
4. Tioga County is exempt from State and Federal taxes. Proposals shall not include any taxes or fees.
5. Prospective firms shall not contact any County employee, official or board member on matters relating to this Request for Proposals, except as indicated herein.
6. Tioga County shall make such reasonable investigations as deemed proper and necessary to determine the ability of the bidder to perform the services outlined herein, and bidder shall furnish to County any and all such information and data for this purpose as may be requested. County further reserves the right to reject any Bid if the evidence submitted by, or if investigations of, such bidder fails to satisfy County that such bidder is properly qualified to carry out the obligations of the contract and to provide the services contemplated herein.
7. All proposals and supporting documents shall be submitted in a sealed envelope to ensure confidentiality of the proposal information prior to the proposal opening. Once the contract is awarded, all proposals and supporting documents become public information and are available for inspection.
8. Proposals shall be considered firm and valid for at least 90 days following submittal deadline. The contractors pricing for Phase II must remain in effect for one year following the submittal deadline. The County reserves the right to rebid Phase II rather than award it to the contractor performing the work on Phase I.
9. If the bid is awarded, the contractor may not assign, transfer, convey, sublet or otherwise dispose of any right, title or interest in the award without the prior written approval of the County.

## II. Background

Tioga County, NY is a rural area situated on the New York/Pennsylvania border and is contiguous to counties with significantly larger populations. The County is a home-rule municipality with a population of approximately 50,000.

The County is governed by nine part-time County Legislators. Departments include Legislature, Treasurer, Sheriff, County Clerk, District Attorney, Public Defender, Board of Elections, Social Services, Probation, Mental Hygiene, Public Health, Personnel, Economic Development & Planning, Public Works, Veterans' Services, Real Property, Information Technology, and Emergency Services. The 2022 County Budget is \$96,329,282. The County employs 385 full-time and 73 part-time

employees. Of those, 77 full-time and 16 part-time are salaried Management/Confidential employees. The principal phase of this study will involve a review the County's salaried Management/Confidential positions. The County is also seeking pricing for an alternate additional phase II which will involve analyzing of all remaining part-time hourly positions and positions covered by collective bargaining agreements: 308 full-time and 57 part-time.

The County has not conducted a comprehensive review of its compensation and benefits in some time. Recent recruiting difficulty has resulted in adjustment of the salaries for some Management/Confidential positions. Management/Confidential pay ranges used in hiring have typically been adjusted each year by a Cost of Living increase. Employees are typically eligible for a merit increase annually based on their performance evaluation; the amount of annual increase is determined year to year by the County Legislature. Management/Confidential employees were not eligible for an increase in FY2021.

### **III. Scope of Services**

Phase I: Tioga County is seeking a qualified consultant to collect data, perform analysis and evaluation and make recommendations on compensation (inclusive of benefits), salary ranges for hiring, and job classifications for salaried non-unionized Management/Confidential employees and positions to establish internal and external comparability. Benefits to be studied include but are not limited to paid leave, employee/employer contributions for health, dental and vision insurance; short-term disability, and other fringe benefits.

The consultant awarded the project is expected to gain a thorough understanding of the County's job descriptions and organizational structure, identify a set of comparable municipal organizations (with like populations, cost of living, and like industries within the community), and gather relevant compensation and benefit data. The consultant is asked to assess total compensation based on both internal and external comparability and develop an updated compensation structure that provides a fair, competitive, transparent, sustainable and fiscally responsible salary and benefits program. The analysis must include comparisons to select public sector employers in the region with similar titles and responsibilities and take into account employee longevity and experience.

The consultant is also expected to prepare an analysis outlining the fiscal impact of implementing the recommendations resulting from the project.

In addition, the consultant will develop a tool for use by the County going forward as new positions are created and/or existing positions are modified, which shall allow for maintenance of the salary structure.

Phase II: Tioga County may seek to have the work performed in Phase I above conducted for all remaining part-time hourly non-unionized positions and full-time positions represented by collective bargaining agreements. The decision regarding whether Phase II will be conducted be made by Tioga County within one year of the proposal due date.

### **IV. Proposal Format**

Proposals should provide a straightforward, concise description of the capabilities to satisfy the requirements of this request. Emphasis should be placed on clarity of content and thoroughness. All proposal responses must be in the following format:

- A. Cover Letter: Including official name of the proposing firm (and/or third party vendors), the address, phone number and e-mail of the firm, as well as the name(s) of the principal contact person. The cover letter must be signed by a person(s) authorized to bind the proposing firm.
- B. Table of Contents: Include an index listing all contents and any included attachments.
- C. Firm Background: This section should include a brief description of the firm as well as experience and qualifications of the person(s) who will be performing the services. Indicate whether the firm is an independent entity or part of a larger corporation. This section should include a general overview of the firm's services as well as the extent to which the firm has experience in completing municipal compensation studies within the past five years.
- D. Proposed Work Plan: This section should contain an outline of the steps the firm proposes to meet the scope of services and a timeline for each step, including completion. The work plan should indicate time frame for overall project completion.
- E. References: Provide at least three client references of public sector clients similar in population to Tioga County with which the firm has worked in the past five years. Provide a contact person, telephone number, e-mail address and mailing address, as well as a brief description of the services provided.
- F. Work Sample: Please provide a sample similar work product (preferably municipal compensation analysis).
- G. Cost Proposal: The County anticipates a lump sum contract with a not-to-exceed figure to accomplish the Study; Phase I and Phase II to be quoted separately. Provide a complete breakdown on all costs related to the content of the proposal required to accomplish the scope of work, including estimated hours for each component of the proposal. Also include an hourly rate for additional work that may be requested but is not included in the proposal.
- H. Attachments to be submitted with proposal:
  - a. Completed and signed Appendix A: Certifications and Assurances
  - b. Completed and signed Appendix B: Non-collusion certificate

## **V. Proposal Evaluation**

The County will award the contract based on the proposal deemed in the best interest of the County. Firms may be asked to provide additional information and/or interview with elected officials and/or County staff. The following evaluation criteria, not listed in order of significance, will be used:

- General approach and plans to meet the requirements of the RFP as well as overall ability to successfully complete the project within the stated schedule.
- Qualifications and experience of personnel.
- Consultant's past performance on classification and compensation projects of similar positions.
- Total cost for Phase I and, if within the project budget, the total initial cost for Phase I and II.

## **VI. Contract**

The County reserves the right to make an award without further discussion of the proposal submitted or to not make any award. The proposal should be submitted initially on the most favorable terms which the firm can propose. The firm shall enter into a written contract, which shall be submitted to the County Attorney for approval. Final acceptance of the proposal shall only be complete under the County Legislature's acceptance of a contract executed by the firm.

Consultant should be prepared to accept a contract resulting from this RFP. It is understood that the proposal will become a part of the official file on this matter without obligation to the County. Firms should carefully review the Sample Contract in Exhibit A to determine the stated requirements and terms.

This RFP does not obligate the County to contract for services specified herein.

**APPENDIX A**

**CERTIFICATIONS AND ASSURANCES**

I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. The attached proposal is a firm offer for a period of 90 days following receipt, and it may be accepted by the County without further negotiation at any time within the 90-day period.
2. In preparing this proposal, I/we have not been assisted by any current or former employee of the County whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this proposal. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
3. I understand that the County will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals will become the property of the County, and I/we claim no proprietary right to the ideas, writings, items, or samples.
4. I/we warrant that, in connection with this procurement:
  - a. The price and/or cost data have been arrived at independently, without consultation, communications, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any competition.
  - b. Unless otherwise required by law, the prices and/or cost data which have been submitted have not knowingly been disclosed by him/her prior to opening, in the case of a proposal directly or indirectly to any other competitor.
  - c. No attempt has been made or will be made by the Consultant to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

Consultant Signature/Title: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_

**APPENDIX B**

**NON-COLLUSION CERTIFICATE**

A. Every Bid herein made to Tioga County, or official thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed, or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the Bidder and affirmed by such Bidder as true under the penalties or perjury: Non-collusive Bidding Certification.

(1) By submission of this Bid, each Bidder and each person signing on behalf of the 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 their knowledge and belief: (i) 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; (ii) 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 (iii) 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) A Bid shall not be considered for award nor shall any award be made where (1) (i) (ii) and (iii) 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 therefore. Where (1) (i) (ii) and (iii) above have not been complied with, the Bid shall not be considered for award nor shall any award be made unless the Tioga County Commissioner of Public Works, to which the Bid is made, or the designee, determines that such disclosure was not made for the purpose of restricting competition.

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 subparagraph A (1).

B. Any Bid hereafter made to Tioga County, or official thereof, by a corporate Bidder for work or services performed or to be performed, or goods sold or to be sold, where competitive bidding is required by statute, rule or regulation, and where such Bid contains the certification referred to herein, 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.

Signature of Bidder \_\_\_\_\_ (SEAL)

Title \_\_\_\_\_

Address \_\_\_\_\_

**EXHIBIT A**

**SAMPLE TIOGA COUNTY CONTRACT**

*The County contemplates that, in addition to all terms and conditions described in this RFP, final agreement between the County and the selected Respondent will include, without limitation, the terms contained in this Exhibit A, Standard Tioga County Contract.*

*Respondents should note that, at a minimum, all the contractual provisions included in the sample contract herein will automatically be deemed part of the final Contract. Although such provisions will govern all proposals as submitted, the County may later amend such provisions. The sample contract is included so that all proposals will be governed by the same contractual terms.*

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between Tioga County, a municipal corporation, with offices at 56 Main Street, Owego, New York 13827, hereinafter referred to as the "County", and \_\_\_\_\_, with offices at \_\_\_\_\_, hereinafter referred to as the "Consultant".

**WITNESSETH:**

WHEREAS, the County is desirous of obtaining the services of the Consultant to perform the scope of work set forth in Section 1 hereof, and

WHEREAS, the County issued a Request for Proposals ("RFP"), and

WHEREAS, the Consultant has submitted a proposal, dated \_\_\_\_\_, to perform the requested services, and

WHEREAS, the County Legislature of the County of Tioga by Resolution Number \_\_\_\_ of 20\_\_\_\_, authorized a contract for services as hereinafter described, and

WHEREAS, the Consultant is willing, able, and qualified to perform such services,

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth the parties hereto mutually agree as follows:

**Section 1. SCOPE OF SERVICES**

The Consultant shall perform the following services for the County:

Accompanying are the Proposal documents which have been completed, signed and executed, and which shall serve as addendums to this Professional Services Agreement, each of which are expressly incorporated as though fully set forth herein. The Consultant represents and warrants that it/he/she has the skills and knowledge necessary to conduct the services provided for in the Proposal, as attached, and understands that the County Legislature is relying on such

representation. Consultant further understands and agrees the Proposal is an integral part of this Professional Services Agreement and that it may not be modified or altered except in a manner provided by this Professional Services Agreement.

**Section 2. TERM OF AGREEMENT**

The term of this Agreement shall be from approval of the contract by the County Legislature until no later than December 31, 2022 unless sooner terminated pursuant to the provisions of this Agreement. At the County's option, the term may be extended at no additional cost.

**Section 3. TERMINATION CLAUSE**

This Professional Services Agreement may be terminated immediately by, or at the direction of, the County Legislature, in the Legislature's sole discretion; and in such an event, the County Legislature shall cause immediate written notice of such termination to be given to Consultant. In every such event in which the Legislature shall terminate the services of Consultant, Consultant is obligated and agrees to refund to the County all moneys paid to it by the County for services not rendered by said Consultant through the date on which Consultant shall receive notice of termination or the effective date thereof. Further, in the event of such termination, the Consultant shall immediately deliver or return to the County all work product produced by or for the County under this Professional Services Agreement.

**Section 4. PAYMENT FOR SERVICES**

The County agrees to pay the Consultant and the Consultant agrees to be paid, a sum in full satisfaction of all expenses and compensation due the Consultant not to exceed \_\_\_\_\_ (\$\_\_\_\_\_).

Payment by the COUNTY for the sum(s) herein contracted for shall be made upon the submission of properly executed monthly invoice, supported with such information and documentation necessary to substantiate the invoice, approved by the County.

The COUNTY may audit records relating to expenses for services provided by the Consultant pursuant to this Agreement at any time during this Agreement and through and including twelve (12) months following this Agreement.

The Consultant shall prepare and make available such statistical and financial service and other records requested by the County. These records shall be subject at all reasonable times to inspection, review and audit by the County, the State of New York and other personnel duly authorized by the County. These records shall be maintained for the period set forth in the State regulations.

**Section 5. INSURANCE AND INDEMNIFICATION**

Consultant shall comply with the following General Contract and Insurance Specifications:

**TIOGA COUNTY, NEW YORK**  
**General Contract and Insurance Specifications**

<b>Project Description or Contract Number:</b>	
<b>Date Issued:</b>	
<b>Vendor name (“Contractor”):</b>	
<b>County Department:</b>	

**Please read these specifications very carefully.** These specifications are part of your contract with Tioga County. It is advisable that you forward a copy of these specifications to your insurance agent. Tioga County’s waiver of any requirement(s) set forth herein shall not constitute a waiver of any other contract provision.

**Part I. General Provisions**

1. The Contractor shall procure and maintain during the term of this contract, at the Contractor’s expense, the insurance policies listed in Part II with limits equal to or greater than the enumerated limits.
2. Every required policy, including any required endorsements and any umbrella / excess policy, shall be primary insurance. Insurance carried by Tioga County, its officers, or its employees, if any, shall be excess and not contributory insurance to that provided by the Contractor.
3. Every required coverage type shall be on an “occurrence basis” unless otherwise specified or allowed.
4. The Contractor may utilize a combination of primary and umbrella/excess liability coverage to achieve the limits required hereunder; such coverage must be at least as broad as the primary coverage.
5. Proof of insurance coverage shall be provided on an ACORD 25 form or acceptable equivalent. All insurance certificates must be approved by the County Department of Law or its designee.
6. The amount of self-insured retention or deductibles must be disclosed on the certificates of insurance. The contractor shall be solely responsible for any self-insured retention or deductible losses under each of the required policies.
7. Tioga County reserves the right to request a certified copy of any policy and any endorsement thereto.
8. All insurance shall be provided by insurance carriers licensed & admitted to do business in the State of New York and must be rated “A–, XI” or better by A.M. Best (Current Rate Guide).
9. If the Contractor fails to procure and maintain the required coverage(s) and minimum limits such failure shall constitute a material breach of contract, whereupon Tioga County may exercise any rights it has in law or equity, including but not limited to the following:
  - (a) immediate termination of the contract;
  - (b) withholding any / all payment(s) due under this contract or any other contract it has with the vendor (common law set-off); OR
  - (c) procuring or renewing any required coverage(s) or any extended reporting period thereto and paying any premiums in connection therewith. All monies so paid by Tioga County shall be repaid upon demand, or at the County’s option, may be offset against any monies due to the Contractor.

**Part II. Required Insurance – Minimum coverage types and amounts**

- 1.

<b>Coverage Type</b>	<b>Minimum Limits</b>								
<p><b><u>Commercial General Liability</u></b> per standard ISO form or equivalent with no modification of coverage for contractual liability</p> <ul style="list-style-type: none"> <li>All endorsed policy exclusions shall be disclosed by submittal of forms</li> <li>Tioga County shall be named Additional Insured, on a primary, non-contributory basis. The additional insured requirement shall be provided by ISO endorsement forms CG 20 10, CG 20 37 and CG 20 01 (or equivalent forms) and shall not contain any exclusion for bodily injury or property damage arising from completed operations. Submittal of the specified Additional Insured forms is required with the ACORD 25.</li> </ul>	<table> <tr> <td>General Aggregate</td> <td>\$2,000,000</td> </tr> <tr> <td>Each Occurrence</td> <td>\$1,000,000</td> </tr> <tr> <td>Fire Damage</td> <td>\$300,000</td> </tr> <tr> <td>Medical Expense</td> <td>\$10,000</td> </tr> </table>	General Aggregate	\$2,000,000	Each Occurrence	\$1,000,000	Fire Damage	\$300,000	Medical Expense	\$10,000
General Aggregate	\$2,000,000								
Each Occurrence	\$1,000,000								
Fire Damage	\$300,000								
Medical Expense	\$10,000								
<p><b><u>Automobile Liability (Comprehensive Form)</u></b> Must cover owned, non-owned, leased and hired vehicles.</p>	<p>\$1,000,000 Combined Single Limit</p>								
<p><b><u>Professional Liability</u></b></p> <ul style="list-style-type: none"> <li>If "Claims Made" coverage, must be maintained continuously for a minimum of two (2) years after contract termination</li> <li>Shall <b>not</b> contain restrictions for <ul style="list-style-type: none"> <li>✓ Contractual liability</li> <li>✓ Express warranties or guarantees</li> <li>✓ Personal injury</li> </ul> </li> </ul>	<p>\$1,000,000 Each Claim \$1,000,000 Annual Aggregate</p>								
<p><b><u>Umbrella / Excess Liability (Following Form)</u></b></p> <ul style="list-style-type: none"> <li>To extend over CGL, Auto</li> </ul>	<p>\$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate</p>								
<p><b><u>Workers' Compensation and Employer's Liability</u></b> If you have no employees (sole proprietor) a NYS Workers' Compensation Board issued waiver of the Workers' Compensation requirement is acceptable</p>	<p>Part 1 – Statutory Part 2 – (Unlimited in NYS) \$100,000 Each Accident \$500,000 Disease Policy Limit \$100,000 Disease Each Employee</p>								
<p>(Proof of either Workers' Compensation Insurance or a NYS Workers' Compensation Board issued waiver of the Workers' Compensation insurance requirement is mandated by state law. There are no exceptions to this law.</p>									

- The certificate face shall:
  - indicate coverages and minimum amounts required in part II.1
  - provide that the coverage(s) shall not be cancelled, terminated or materially changed (including an insurance limits reduction) unless prior written notice has been given to the Tioga County.
- The Additional Insured & Certificate Holder should read:

County Of Tioga  
**Attn: Law Department**  
56 Main Street, Owego, NY 13827

### **Part III      Defense and Indemnification**

**The following provisions concerning indemnification shall not be construed to indemnify the County for damages arising from bodily injury to persons or property contributed to, caused by or resulting from the sole negligence of the County or its employees.**

The Contractor agrees to indemnify and hold the County of Tioga and any officer, employee and/or agent thereof free and harmless from any and all loss(es), penalty(ies), damages, settlement(s), cost(s), charge(s), professional fee(s) or other expense(s) or liability(ies) of every kind arising from or relating to any and all claim(s), lien(s), demand(s), obligation(s), action(s), proceedings or causes of action of any kind in connection with, or arising directly or indirectly from the negligent error(s) and/or omission(s) and/or act(s) of the Contractor (including Contractor's employees, agents and/or subcontractors) in the performance of this agreement.

Without limiting the generality of the preceding paragraphs, the following shall be included in the indemnity hereunder: any and all such claims, etc., relating to personal injury, death, damage to property, or any actual or alleged violation of any applicable statute (including specifically but not limited to New York State Labor Law §§ 200; 202; 240 & 241), ordinance, administrative order, executive order, rule or regulation, or decree of any court of competent jurisdiction in connection with, or arising directly or indirectly from, errors and/or negligent acts by the Contractor, as aforesaid,.

### **Part IV      Safety**

Tioga County specifically reserves the right to suspend or terminate all work under this contract whenever Contractor and/or contractor's employees or subcontractors are proceeding in a manner that threatens the life, health or safety of any of contractor's employees, subcontractor's employees, county employees or member(s) of the general public on county property. This reservation of rights by Tioga County in no way obligates Tioga County to inspect the safety practices of the Contractor.

If Tioga County exercises its rights pursuant to this part, the contractor shall be given three days to cure the defect, unless Tioga County, in its sole and absolute discretion, determines that the service cannot be suspended for three days due to Tioga County's legal obligation to continuously provide contractor's service to the public or Tioga County's immediate need for completion of the Contractor's work. In such case, Contractor shall immediately cure the defect.

If the Contractor fails to cure the identified defect(s), Tioga County shall have the right to immediately terminate this contract. In the event that Tioga County terminates this contract, any payments for work completed by the Contractor shall be reduced by the costs incurred by Tioga County in re-bidding the work and /or by the increase in cost that results from using a different vendor.

## **Section 6. AMENDMENTS**

This Agreement may be modified or amended only in writing duly executed by both parties. Any modification or amendment shall be attached to and become a part of this Agreement. All Notices concerning this Agreement shall be delivered in writing to the parties at the principal addresses as set forth above unless either party notifies the other of a change in address.

## **Section 7. INDEPENDENT CONTRACTOR**

For the purpose of this Agreement, the Consultant is and shall in all respects be considered an independent contractor. The Consultant, its individual members, directors, officers, employees and agents are not and shall not hold themselves out nor claim to be an officer or employee of the County nor make claim to any rights accruing thereto, including, but not limited to, Worker's Compensation, unemployment benefits, Social Security or retirement plan membership or credit.

The Consultant shall have the direct and sole responsibility for the following: payment of wages and other compensation; reimbursement of the Consultant's employee's' expenses; compliance with Federal, state and local tax withholding requirements pertaining to income taxes, Workers Compensation, Social Security, unemployment and other insurance or other statutory withholding requirements; and all obligations imposed on the employer of personnel. The County shall have no responsibility for any of the incidences of employment.

## **Section 8. EXECUTORY NATURE OF AGREEMENT**

This Agreement shall be deemed executory only to the extent of the funding available and the County shall not incur any liability beyond the funds annually budgeted therefore. The County may make reductions in this Agreement for the loss/reduction in State Aid or other sources of revenues. If this occurs, the Consultant's obligations regarding the services provided under this Agreement may be reduced correspondingly.

## **Section 9. NO ASSIGNMENT WITHOUT CONSENT**

The Consultant shall not, in whole or in part, assign, transfer, convey, sublet, mortgage, pledge, hypothecate, grant any security interest in, or otherwise dispose of this Agreement, or any part thereof to any person or entity without the prior written consent of the County.

## **Section 10. RIGHT TO INSPECT**

Designated representatives of the County shall have the right to monitor the provision of services under this Agreement which includes having access at responsible times and places to the Consultant's employees, reports, books, records, audits and any other material relating to the delivery of such services. The Consultant agrees to maintain and retain all pertinent records related to this Agreement for a period of ten (10) years after final payment.

## **Section 11. NON-DISCRIMINATION**

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 Consultant will not discriminate against any employee or applicant for employment, or any person or inmate served under this Agreement because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, marital status or any other class of person protected against discrimination by state or federal statute.

**Section 12. CONTRACTOR QUALIFIED, LICENSED, ETC.**

The Consultant represents and warrants to the County that it and its employees are duly and fully qualified under the laws of the State of its incorporation and of the State of New York, to undertake the activities and obligations set forth in this Agreement, that it possess as of the date of its execution of this Agreement, and it will maintain throughout the term thereof, all necessary approvals, consents and licenses from all applicable government agencies and authority and that it has taken and secured all necessary board of directors and shareholders action and approval.

**Section 13. CONFIDENTIAL INFORMATION**

“Confidential Information” means any and all non-public, medical, financial and personal information in whatever form (written, oral, visual or electronic) possessed or obtained by either party. Confidential Information shall include all information which (i) either party has labeled in writing as confidential, (ii) is identified at the time of disclosure as confidential, (iii) is commonly regarded as confidential in the health care industry, or (iv) is Protected Health Information as defined by HIPAA.

Consultant agrees to comply with all applicable laws and regulations, including HIPAA and the HITECH Act, to the extent applicable, in meeting their obligations under this Agreement.

Consultant agrees to maintain the confidentiality of any Confidential Information, including Protected Health Information and to implement all necessary and appropriate safeguards to prevent any unlawful use or disclosure of any Confidential Information.

Consultant agrees to report to the County any use or disclosure of Confidential Information in violation of this Agreement, HIPAA or any other federal, state or local law or regulation.

The obligations of confidentiality under this Agreement will continue indefinitely from the effective date of this Agreement.

**Section 14. FEDERAL, STATE AND LOCAL LAW AND REGULATIONS COMPLIANCE**

Notwithstanding any other provision in this Agreement, the Contractor remains responsible for ensuring that any and all services provided pursuant to this Agreement comply with all pertinent provisions of Federal, State and local statutes, rules and regulations, including without limitation, Title VI of the Civil Rights Act of 1964 (CRA Title VI), Federal Executive Order

13166, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA), HIPAA and HITECH.

**Section 15. LAW**

This Agreement shall be governed by and under the law of the State of New York without regard or reference to its conflict of law principles. In the event that a dispute arises between the parties, venue for the resolution of such dispute shall be the County of Tioga, New York.

**Section 16. NO WAIVER**

In the event that the terms and conditions of this Agreement are not strictly enforced by the County, such non-enforcement shall not act as or be deemed to act as a waiver or modification of this Agreement, nor shall such non-enforcement prevent the County from enforcing each and every term of this Agreement thereafter.

**Section 17. STANDARD CLAUSES**

The provisions of Standard Clauses for Tioga County Contracts, attached hereto as Appendix A are hereby incorporated into this Agreement and made part hereof. The laws of the State of New York will govern this Agreement, without regard for New York's choice of law statute. The Agreement contains the entire understanding of the parties with respect to the matters contained herein. In the event of any conflict between the terms and conditions set forth in this Agreement, the following order of precedence shall apply: (1) Standard Clauses; (2) this Agreement.

**Section 18. SEVERABILITY**

If any provision of this Agreement is held invalid by a court of law, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the laws of the State of New York.

**Section 19. ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement between the County and the Consultant and supersedes any and all prior Agreements between the parties hereto for the services herein to be provided.

/Signatures/

**APPENDIX A**

**STANDARD CLAUSES FOR TIOGA COUNTY CONTRACTS**

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

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**STANDARD CLAUSES FOR TIOGA COUNTY  
CONTRACTS**

The parties to the attached contract, license, lease, amendment, renewal 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 County of Tioga ("the County"), whether a contractor, vendor, licensor, licensee, lessor, lessee or any other party):

**1. RELATIONSHIP OF PARTIES.** Contractor shall have the status of an independent contractor, and in accordance with such status, agrees that it will conduct itself in a manner consistent with such status, and that it will neither hold itself out as, nor claim that any of its officers or employees are officers or employees of the County by reason of this Agreement. Contractor further agrees that it will not make against the County any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.

**2. EXECUTORY CLAUSE. (A) All Contracts.** In accordance with § 362 of the County Law, the County shall have no liability under this contract to Contractor or to anyone else beyond funds appropriated and available for this contract. **(B) Certain Installment Purchase Contracts.** Further, in the case of an installment purchase contract, pursuant to General Municipal Law § 109-b, any such installment purchase contract is not a general obligation of the County. Neither the full faith and credit nor the taxing power of the County of Tioga are pledged to the payment of any amount due or to become due under such installment purchase contract. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or make monies available for the purpose of the contract. Further, no liability on account thereof shall be incurred by the state of New York municipal bond bank agency beyond the amount of such monies. It is understood that neither this contract nor any representation by any employee or officer of such agency creates any legal or moral obligation to appropriate or make state monies available for the purpose of the contract.

**3. EXTENSIONS, RENEWALS, MODIFICATIONS.** Extensions or renewals to the Agreement or any modification including new products, terms, or price changes to the Agreement shall be submitted by the Contractor to the County for approval by the County Legislature of the County in order to be effective. No provision of a contract which states that the term of the contract shall be deemed renewed for a specified

additional period shall be effective against the County, absent a subsequent resolution of the County legislature, specifically authorizing such renewal.

**4. NON-ASSIGNMENT CLAUSE.** In accordance with § 109 of the General Municipal Law, this contract may not be assigned by Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and attempts to do so without such consent are null and void.

**5. INSURANCE AND INDEMNIFICATION, HOLD HARMLESS. (A) Insurance.** (i) (a) Contractor covenants and agrees to maintain in full force and effect during the term of this Agreement, and any subsequent term, comprehensive insurance in form, term and content satisfactory to the annexed standards of the County, which are incorporated herein (*Appendix B: General Contract and Insurance Specifications*) and, to prove as evidence of such compliance, insurance certificate(s) which shall be annexed to and made part of this Agreement and shall name the County of Tioga Attention: Law Department, as Additional Insured and certificate holder (not simply "certificate holder") (except Worker's Compensation/Disability Benefits) in connection with the work being performed. (b) Said certificate(s) shall be annexed hereto prior to or at the time of execution of this Agreement by the County. (c) Contractor acknowledges that failure to obtain or maintain such insurance on behalf of the County constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the municipality. The County shall, if it deems it necessary, have the right to ask for additional certification at different points throughout the life of the contract.

**(B) Indemnification, Hold Harmless.** The Contractor agrees to indemnify and hold the County of Tioga and any officer, employee and/or agent thereof free and harmless from any and all loss(es), penalty(ies), damages, settlement(s), cost(s), charge(s), professional fee(s) or other expense(s) or liability(ies) of every kind arising from or relating to any and all claim(s), lien(s), demand(s), obligation(s), action(s), proceedings or causes of action of any kind caused by the negligent error(s) and/or omission(s) and/or act(s) of the Contractor (including Contractor's employees, agents and/or subcontractors) in the performance of this agreement. Without limiting the generality of the preceding paragraphs, the following shall be included in the indemnity hereunder: any and all such claims, etc., relating to personal injury, death, damage to property, or any actual or alleged violation of any applicable statute (including specifically but not limited to New York State Labor Law §§ 200; 202; 240 & 241), ordinance, administrative order, executive order, rule or regulation, or decree of any court of competent jurisdiction in connection with, or arising directly or indirectly from, errors and/or negligent acts by the Contractor, as aforesaid.

These provisions concerning indemnification shall not be construed to indemnify the County for damages arising from bodily injury to persons or property contributed to, caused by or resulting from the sole negligence of the County or its employees.

**6. WORKERS' COMPENSATION BENEFITS.** This contract shall be void and of no force and effect unless 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 (WCL). Contractor understands and agrees that pursuant to WCL § 57 (workers' compensation requirements), Contractor must provide one of the following forms to the government entity issuing the permit or entering into a contract: (A) Form CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage; (B) Form C-105.2, Certificate of Workers' Compensation Insurance; or (C) Form SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Worker's Compensation Group Self-Insurance. Pursuant to WCL § 220(8) (disability benefits requirements), Contractor must provide one of the following forms to the entity issuing the permit or entering into a contract: (A) CE-200, Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage (see above); (B) DB-120.1, Certificate of Disability Benefits Insurance; or (C) DB-155, Certificate of Disability Benefits Self-Insurance. (In the case of NYS Agencies acceptable proof consists of a letter from the NYS Department of Civil Service indicating the applicant is a New York State government agency covered for workers' compensation). Contractor acknowledges and agrees that, pursuant to the New York State Workers' Compensation Board, ACORD forms are not acceptable proof of such coverage.

**7. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Art. 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, 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 § 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 § 230 of the Labor Law, then, in accordance with § 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 § 220-e or § 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation. It is the sole responsibility of Contractor to determine if Contractor is subject to this contract provision and to ensure compliance with same.

**8. WAGE AND HOURS PROVISIONS FOR CERTAIN CONTRACTS.** If this is a public work contract covered by Art. 8 of the Labor Law or a building service contract covered by Art. 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 Art. 8 of the Labor Law, Contractor understands and agrees that the filing of payrolls in a manner consistent with Subd. 3-a of § 220 of the Labor Law shall be a condition precedent to payment by the County of any State approved sums due and owing for work done upon the project. It is the sole responsibility of Contractor to determine if Contractor is subject to this contract provision and to ensure compliance with same.

**9. SET-OFF RIGHTS.** The County shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the County's option to withhold for the purposes of set-off any moneys due to Contractor under this contract up to any amounts due and owing to the County 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 County for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The County 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 County agency, its representatives, or the County Treasurer.

**10. RECORDS.** 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 County Legislature, County Treasurer 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 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 County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under § 87 of the Public Officers Law (the "Statute") provided that: (i) Contractor shall timely inform an appropriate County 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 County's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (A) Pursuant to Tax Law § 5, Contractor understands and agrees that, notwithstanding any other provision of law, the County shall, at the time the County contracts to purchase or purchases goods or services or leases real or personal property from any person, require that each such person provide to the County such person's federal social security account number or federal employer identification number, or both such numbers when such person has both such numbers, or, where such person does not have such number or numbers, the reason or reasons why such person does not have such number or numbers. Such numbers or reasons shall be obtained by the County as part of the administration of the taxes administered by the New York State Tax Commissioner for establishing the identification of persons affected by such taxes. (B) Contractor further understands and agrees that, notwithstanding any other provision of law, the County shall, upon request of the commissioner, furnish to the commissioner the following information with respect to each person covered by this section: (1) business name or the name under which the applicant for a license or licensee will be licensed or is licensed; (2) business address or whatever type of address the County requires the applicant for a license or the licensee to furnish to it; and (3) federal social security account number or federal employer identification number, or both such numbers where such person has both such numbers, or the reason or reasons, furnished by such person, why such person does not have such number or numbers. Notwithstanding

Art. 6 of the Public Officers Law or any other provision of law, the report to be furnished by the County to the commissioner pursuant to this section shall not be open to the public for inspection. (C) For the purposes of this section, "Person" shall mean an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of the foregoing. However, such term shall not include any public corporation, corporation formed other than for profit or unincorporated not-for-profit entity, except such term shall include an education corporation of the type dealt with in § 221 of the Education Law, an education corporation subject to Art. 101 of the Education Law and a cooperative corporation.

**12. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** Contractor certifies and warrants that any and all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of § 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 subd. (including the County) or public benefit corporation. 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. Except as might be specifically authorized by State Finance Law § 165, any bid, proposal or other response to a solicitation for bid or proposal which proposes or calls for the use of any tropical hardwood or wood product in performance of the contract shall be deemed non-responsive.

**13. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** In the event Contractor conducts business in New York state, and owns or licenses computerized data which includes private information, Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa) as applicable.

**14. NON-COLLUSIVE BIDDING CERTIFICATION FOR CERTAIN CONTRACTS.** In accordance with General Municipal Law § 103-d(1), if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury: (a) By submission of this bid, each bidder and each person signing on behalf of any 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 knowledge and belief: (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; (2) 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 (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

**15. IRAN DIVESTMENT ACT REQUIREMENTS FOR CERTAIN CONTRACTS.** In accordance with General Municipal Law § 103-g, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury: By submission of this bid, each bidder and each person signing on behalf of any 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 its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of Subd. 3 of § 165-a of the State Finance Law.

**16. HIPAA REQUIREMENTS FOR CERTAIN CONTRACTS.** In the event that Protected Health Information is used or disclosed in connection with or in the course of the performance of the Agreement, a “Business Associate Agreement” (“*Business Associate Agreement*”), shall be attached to and incorporated by reference in the contract, in a form and content approved by the County and shall apply in the event that Protected Health Information is used or disclosed in connection with or in the course of the performance of the Agreement by the party signing this Agreement as Business Associate, and pursuant to which Business Associate may be considered a “business associate” of the County as such term is defined in the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) including all pertinent regulations issued by the U.S. Department of Health and Human Services, as amended.

**17. PROMPT AUDITING OF VOUCHERS AND LATE PAYMENT PROVISIONS.** Consistent with accepted business practices and with sound principles of fiscal management, the County shall audit vouchers and make payments expeditiously and subject to proper and reasonable financial oversight activities designed to ensure that the County receives the quality of goods and services to which it is entitled and to ensure that public funds are spent in a prudent and responsible manner. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by General Municipal Law § 3-a and General Municipal Law Art. 5-a, to the extent required by law.

**18. 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.

**19. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise. Pursuant to Civil Practice Law and Rules 504(1), the place of trial of all actions related to this contract by or against the County or any of its officers, boards or departments shall be in such county.

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

**21. GIVING OF NOTICES.** Any notice, request, or other communication required to be given pursuant to the provisions of this agreement shall be in writing and shall be deemed to have been given when delivered in person or five days after being deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, and addressed to the address listed on the face sheet of this contract. The address of either party to this agreement may be changed by notice in writing to the other party served in accordance with this provision.

**22. COUNTY ATTORNEY'S APPROVAL.** Contractor understands and agrees that the Tioga County Attorney's office may approve and make or require modifications, other than price and dates, prior to execution by the County to ensure compliance with applicable federal, state and local laws and with all provisions of the county's contract policy manual and insurance standards.

**23. DESCRIPTIVE HEADINGS FOR CONVENIENCE ONLY.** Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Contract.

**24. ACCURACY OF CONTRACTOR REPRESENTATIONS.** Contractor understands, acknowledges and agrees that this Contract will be relied upon by, and filed with, registered or recorded in or otherwise become a part of the records of, the County of Tioga. Contractor affirms, under penalty of perjury, to the best of his/her/its knowledge, information and belief, that the representations, agreements and promises made by Contractor in this Contract, and all attachments thereto, including any and all exhibits or appendices, is true, complete and accurate.

**25. SEXUAL HARASSMENT POLICY VENDOR ACKNOWLEDGEMENT**

1. Vendor represents and warrants that:
  - a) It has received and understands Tioga County’s Sexual Harassment Prevention Policy (“Policy”), which is also available on the Tioga County website at <https://www.tiogacountyny.com>
  - b) It has provided each employee who provides a service to Tioga County with a copy of the Policy;
  - c) All Vendor employees have received training on the Policy, including how to file a complaint of sexual harassment against Tioga County under the Policy;
  - d) A Vendor employee who has not received a copy of the Policy and/or received training on the Policy shall not be assigned to work at a Tioga County facility or with Tioga County employees; and
  - e) Vendor shall not retaliate against a Vendor employee who exercises a right protected under the Policy or law. Upon request, Vendor shall provide Tioga County with a Vendor employee’s written acknowledgement of the Policy and training received.
2. To the fullest extent provided by law, and without prejudice to any rights Tioga County may have against Vendor, Vendor shall fully cooperate with Tioga County’s investigation into any claim(s) of sexual harassment by a Vendor employee against Tioga County and shall further indemnify and hold Tioga County harmless from any (a breach of this provision, to include the representations and warranties made in paragraph 1 above; and b) the cost and expense of any investigation undertaken by Tioga County which pertains to or arises from the filing of a Vendor employee’s claim against Tioga County under this policy.

**26. CLAUSES FOR NYSDOT FUNDED 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 (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, 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 will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Recipient Federal Highway Administration and Federal Transportation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or Federal Highway Administration and Federal Transportation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration and Federal Transportation Administration may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration and Federal Transportation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.