

**ONEIDA COUNTY  
WISCONSIN**

**HIGHWAY DEPARTMENT  
730 KEMP ST  
RHINELANDER, WISCONSIN  
715-369-6184**

**REQUEST FOR BIDS & CONTRACT DOCUMENTS  
FOR**

**2024 County Highway N Project  
LRIP, CHIP-S Project  
(Approximately 3.67 miles)**

Specifications and bid forms may be obtained at:

1. Oneida County Highway Department  
730 Kemp St., Rhineland, WI 54501  
Monday through Thursday from 6:00 a.m. until 4:00 p.m.; or
2. By emailing a request to [ahegeman@oneidacountywi.gov](mailto:ahegeman@oneidacountywi.gov); or
3. May be reviewed at the Highway Department  
Monday through Thursday from 6:00 a.m. until 4:00 p.m.

## TABLE OF CONTENTS

### Section Number

### Bidding and Contract Documents

Cover Page

Table of Contents

#### Bidding

|       |  |
|-------|--|
| 00100 | Invitation to Bid                      |
| 00110 | Instructions to Bidders                |
| 00120 | Form of General Bid                    |
| 00130 | Notice of Award / Acceptance of Notice |
| 00140 | Notice to Proceed                      |

#### Contract

|       |   |
|-------|---|
| 00200 | Agreement                               |
| 00210 | General Provisions                      |
| 00220 | Project Specifications & Map of Project |
| 00230 | Change Order Form                       |
| 00240 | Certificate of Final Completion         |

**SECTION 00100**

**INVITATION TO BID**

Sealed bids for this project will be received at the Oneida County Highway Department, 730 W. Kemp St., Rhinelander, WI 54501 until the time specified below at which time the bids will be publicly opened and read:

**PROJECT:** 2024 County Highway N Project

This is a request for bids is for services, labor and equipment involved with the re-construction of approximately 3.67 miles of County Highway N as outlined in SECTION 00220, Project Specifications & Map of Project.

It is anticipated that the work to be done shall be completed by August 31<sup>st</sup>, 2024 but a contract extension may be granted at the sole discretion of the Highway Commissioner. Time is of the essence regarding the completion date and all other deadlines specified herein. Unless a written extension is granted, all work shall be completed by the dates designated in these documents.

**BID OPENING:** Bids will be opened on April 30, 2024 at the Oneida County Highway Department at 3:00 p.m.

There will be no pre-bid meeting for this project. An onsite inspection with the Highway Commissioner or his designee is required. Contact Alex Hegeman at 715-369-6184 to arrange an onsite inspection.

Selection of the contractor will be based upon bidder qualifications and bid price. The contract will be awarded to the bidder deemed by the awarding authority to be the lowest responsible and eligible bidder.

Contractors submitting bids must perform at least 50% of the work outlined in the bid documents.

Oneida County reserves the right to waive any informalities, to accept or reject, in whole or in part, any or all bids, or take whatever other action may be deemed to be in the best interest of the County.

Oneida County,

Alex Hegeman  
Highway Commissioner

## SECTION 00110

### INSTRUCTIONS TO BIDDERS

#### 1. Receipt and Opening of Bids

Bids shall be addressed to Oneida County Highway Department, 730 W. Kemp St., Rhinelander WI 54501, or hand delivered to the Oneida County Highway Department, 730 W. Kemp St., Rhinelander, WI 54501.

Bid submissions shall be in a sealed envelope, which bears on the outside, the name of the bidder, their address and a notation of the PROJECT, namely: **2024 County Highway N Project**. If sent by mail, the sealed envelope containing the bid must be enclosed in a separate mailing envelope.

Bids will be received at the Oneida County Highway Department until 3:00 p.m. on April 30, 2024 at which time and place said bids will be publicly opened and read aloud.

Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified will not be considered. The bidder agrees that its bid shall be good and may not be withdrawn for a period of 30 business days, after the opening of bids.

#### 2. Site Visit and Work to be Completed

Bidders shall visit the site prior to submitting a bid. All site visits shall be conducted on or before April 29, 2024. Bidders may contact the County at the Oneida County Highway Department, Commissioner Alex Hegeman at 715-369-6184 in order to arrange date and time to visit project site.

All information given in the Contract Documents relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the best sources at present available to the County. All such information is furnished only for the information and convenience of bidders and is not guaranteed.

Additional drawings showing details in accordance with which the Work is to be done may be furnished by addendum from time to time during the bidding period by the County and shall then become a part of the Contract Documents.

The Work to be done and paid for under any item shall not be limited to the exact extent mentioned or described but shall include all incidental work necessary or customarily done for the completion of that item.

All quantities are approximate and do not expressly or by implication agree that the actual quantities will correspond therewith, but the County reserves the right to increase or decrease the quantity. An increase or decrease in the quantity for any item shall not be regarded as cause for an increase or decrease in the unit prices.

Each bidder must familiarize himself fully with the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract. Insofar as possible the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other Contractor or employees performing their duties at the work site.

It is further agreed and understood that no bidder or Contractor shall use or be entitled to use any of the information made available to him or obtained in any examination made by him in any manner as a basis of or ground for any claim or demand against the County, arising from or by reason of any variance which may exist between the information made available and the actual subsurface or other structures actually encountered during the construction work, except as may otherwise be expressly provided for in the Contract Documents.

### 3. Preparation of Bid

Each bid must be submitted on the prescribed form. Three (3) copies of the bid form shall be submitted. All blank spaces for bid prices must be filled in, in ink or typewritten, in both words and figures. In the event that there is a discrepancy between the lump sum or unit prices written in words and figures, the prices written in words will govern.

Failure to complete the bid documents adequately will result in the disqualification of the bidder.

All bids, attachments to bids, and other items supplied to County, including but not limited to blueprints, drawings, or project descriptions, by all bidders, successful or otherwise, shall be the property of County. County shall not owe to any bidder, successful or otherwise, any obligation of confidentiality with regard to any bid, attachment to bid, other items supplied to County by bidder, including but not limited to blueprints, drawings, or project descriptions, or any contract document resulting from bid. Contract documents shall be the property of both parties.

County shall not be liable to any bidder for any costs incurred in bidding, or communicating with County concerning bidding.

Where applicable, all bid prices shall include the cost of mobilization of equipment and no extra payment will be made for such mobilization or movement of equipment from job to job site.

### 4. Modification

Any bidder may modify its bid by withdrawing its bid and submitting a new one at any time prior to the scheduled closing time for receipt of bids.

### 5. Interpretations and Addenda

No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any bidder orally. All information given to bidders other than by means of the plans, specifications, or

by addenda, as described below, is given informally and shall not be used as the basis of a claim against the County. All bidders, by bidding, expressly, and irrevocably waive any and all such claims.

Every request for such interpretation should be in writing addressed to Alex Hegeman at [ahegeman@oneidacountywi.gov](mailto:ahegeman@oneidacountywi.gov) and, to be given consideration, must be received at least seven days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, when issued, will be mailed by certified mail with return receipt requested to all prospective bidders (at the respective address furnished by them for such purposes), or sent via facsimile or email if time requires. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the Contract Documents.

Addenda may be required during the bidding period to modify, clarify, or interpret the Specifications and Contract Documents. It is intended, but not guaranteed, that such Addenda shall be mailed by the Awarding Authority to all persons or parties to whom Bid and Contract documents have been issued (Bidders of Record). Failure to receive such Addenda shall in no way relieve any bidder from the execution of its provisions. All bidders are cautioned to verify the number of Addenda that have been issued and to secure any needed copies from the Highway Commissioner.

#### 6. Bid Opening Procedure

The total dollar amount of each bid will be read, and the three apparent lowest bids will be selected for further consideration. These three apparent low bids will be read aloud for the benefit of the other bidders and the bid opening procedure will be closed. All those present at the bid opening may examine all bids after the bid opening and after the reading of the three apparent low bids.

At the time of the opening of bids, each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the Contract Documents (including all addenda). The failure or omission of any bidder to examine any form, instrument, or document shall in no way relieve any bidder from any obligation in respect of his bid.

#### 7. Ability and Experience of Bidder

No award will be made to any bidder who cannot satisfy the County that he has sufficient ability and experience in this class of work and sufficient capital and plant to enable him to complete the work successfully within the time named. The County's decision or judgment on these matters will be final, conclusive, and binding. The County may make such investigations as it deems necessary, and the bidder shall furnish to the County, under oath if so required, all such information and data for this purpose as the County may request.

#### 8. Failure to Enter into Contract

The successful bidder, upon his failure or refusal to execute and deliver the Acceptance of Notice required within 10 days after presentation thereof by the County, shall forfeit to the County, as liquidated damages for such failure or refusal, an amount equal 10% of the successful bid, but the amount forfeited shall not exceed the difference between his/her bid price and the bid price of the next lowest responsible and eligible bidder. In case of death, disability, bona fide clerical or mechanical error

of a substantial nature, or other similar unforeseen circumstances affecting the bidder, his/her bid deposit may be returned in the sole discretion of the Oneida County Public Works Committee.

#### 9. Right to Reject Bid

The County reserves the right to waive any informality in bids and to reject any and all bids, should the County deem it to be in the public interest to do so.

The County may also reject bids which in its sole judgment are either incomplete, conditional, obscure or not responsive or which contain additions not called for, erasures not properly initialed, alterations, or similar irregularities.

#### 10. Award of Contract

The Contract will be awarded to "the lowest responsible bidder" pursuant to § 59.52(29) of the Wisconsin Statute as amended. Such a bidder shall possess the skill, ability and integrity necessary for the faithful performance of the work, shall be able to furnish labor that can work in harmony with all other elements of labor employed, or to be employed, in the work, and shall otherwise comply with all applicable provisions of law. Contract award shall be subject to availability of an appropriation for funding.

**SECTION 00120**

**FORM OF GENERAL BID**

Bid of (hereinafter called "Bidder")\* \_\_\_\_\_

(\_\_\_\_) a corporation, organized and existing under the laws of the state of \_\_\_\_\_

(\_\_\_\_) a partnership

(\_\_\_\_) a joint venture

(\_\_\_\_) an individual doing business as \_\_\_\_\_

To: County of Oneida, Wisconsin:

Re: 2024 County Highway N Project

Bidder states that it has examined the plans and specifications and related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the project in accordance with the contract documents and the plans and specifications within the time set forth below, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the contract documents.

**BY SIGNING BELOW THE BIDDER AFFIRMS AND ACKNOWLEDGES THAT: they have read and understand the bid specifications and its Attachments, if any; they have authority to enter a bid on behalf of the Entity, Corporation, or Business they are signing for; they are knowingly, freely, and voluntarily bidding on this project; and that they accept and agree to be bound by the terms and conditions of bid specifications and its Attachments, if any, as outlined in the bid specifications.**



C. Schedule of Prices

| ITEM DESCRIPTION  | UNIT OF MEASURE | QUANTITY              | UNIT BID PRICE    | TOTAL     |
|---|-----------------|-----------------------|-------------------|-----------|
| Pulverize existing roadway and added gravel full width and depth. Final grade shaped, watered, and compacted. See specifications.   | PER MILE        | 3.67 miles            | \$                | \$        |
| Shape, grade and compact additional base course that will be furnished and hauled by Oneida County in areas where county deems additional base course is necessary to correct deficiencies in the slope and grade of roadway. | PER YARD        | Approx. 50 yards      | \$                | \$        |
| Furnish and produce 4MT 58-28 S HMA according to specs attached. Includes laydown (paver) and compaction (2 roller minimum). Lower layer at 2 1/4" x 22' and surface layer 1 3/4" x 22'.                                      | TONS            | Approx. 10,700 Tons   | \$                | \$        |
| Furnish and apply WisDOT approved tack coat (455.2.5) on lower layer of asphalt prior to laying surface layer of asphalt and according to WisDOT specifications. Tack coat is applied at 0.05 gallons/sq.yd.                  | PER GALLON      | Approx. 2,400 Gallons | \$                | \$        |
| <b>TOTAL FOR ROAD SURFACE</b>   |                 |                       | <b>TOTAL BID:</b> | <b>\$</b> |

D. Bidder hereby designates the person named below as its agent for the purpose receiving all notices from County, including but not limited to notice of award of bid. All notices sent to the person below shall be deemed received by Bidder. County's designation is below.

Bidder:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone number: \_\_\_\_\_

Email Address (optional): \_\_\_\_\_

FAX Number (optional): \_\_\_\_\_

County:

Oneida County Highway Department

Attn: Alex Hegeman

730 W. Kemp St.

Rhineland, WI 54501

715-369-6131

715-369-2790 fax

[ahegeman@oneidacountywi.gov](mailto:ahegeman@oneidacountywi.gov)

Bidder agrees to perform the bid work described in the specifications and shown on the plans for the following contract price: \$ \_\_\_\_\_

The above unit prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

Bidder understands that all bids for this project are subject to the applicable bidding laws of the State of Wisconsin.

Bidder understands that the County reserves the right to reject any or all bids and to waive any informalities in the bidding.

Bidder agrees that this bid shall be good and may not be withdrawn for a period of 30 days, Saturdays, Sundays and legal holidays excluded, after the opening of bids.

Bidder affirms its qualifications to perform the work as bid upon according to all the requirements of the plans and specifications.

If Bidder is a corporation, LLC or other entity, the undersigned affirms that he or she is a duly authorized representative of that entity and has authority to bind the entity to this agreement.

\_\_\_\_\_  
*Authorized Signature for Bidder*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Printed Name*

**SECTION 00130**

**NOTICE OF AWARD**

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROJECT Description: **2024 County Highway N Project  
HIGHWAY DEPARTMENT  
ONEIDA COUNTY, WI**

County has considered the bids submitted for the above described Project.

County are hereby accepts at the bid of: \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ .

You are required by the Instructions to Bidders to execute the below Acceptance within 10 days of receipt and return it to the County. Failure to execute said Acceptance may result in penalties as described in the Bid Package. The County will be entitled to such other rights as may be granted by law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Highway Department  
Oneida County, WI (County)

\_\_\_\_\_  
Alex Hegeman, Highway Commissioner

**ACCEPTANCE OF NOTICE**

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 2024, receipt of the above Notice of Award is hereby acknowledged by:

Bidder: \_\_\_\_\_.

Representative: \_\_\_\_\_ (signature).

Title: \_\_\_\_\_.

## SECTION 00200

### AGREEMENT

THIS AGREEMENT, made this the date of 2024, by and between County and Bidder (Contractor).

For and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the County, the Contractor hereby agrees with the County to commence and complete the project described as follows: **2024 County Highway N Project**, hereinafter called the PROJECT, for the sum set out in SECTION 00120 Form of General Bid, and all extra work in connection therewith, under the terms as stated in the Contract Documents; and at his (it's or their) own proper cost and expense; to furnish all the materials, supplies, machinery equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in Contract Documents as prepared by the County.

The Contractor shall furnish all labor, services, materials, equipment, plant, machinery, apparatus, appliances, tools, supplies, and all other things necessary to do all work required for the completion of each item of the Work and as herein specified.

The Contractor further agrees to complete the Project by August 31<sup>th</sup>, 2024. A contract extension shall be at the discretion of the Highway Commissioner.

The Contractor agrees not to discriminate against or exclude any person from participation herein on grounds of race, religion, color, sex, age or national origin; and that it shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to race, religion, color, sex, age, handicapped status, or national origin.

The County agrees to pay the Contractor for the performance of the contract and to make payments as provided in the Contract Documents.

Contractor understands and agrees that, because County is a party to this contract, provisions of the Wisconsin Open Records Law and other laws relating to public records may apply to records kept by Bidders. Bidder agrees to fully comply with such laws, and to cooperate with County in its compliance with such laws. Cooperation shall include, but not be limited to, the provision of records, or copies of records to County or others upon the request of county. Compliance and cooperation of Bidders shall be at their sole cost and expense.

#### Insurance

The Contractor shall carry and continuously maintain until completion of the Contract, insurance as specified in the Contract Documents and in such form as shall protect him performing work covered by this Contract, and Oneida County and its employees, agents, officials, and Highway Commissioner, from all claims an liability for damages for bodily injury, including accidental death, and for property damage, which may arise from operations under this Contract. The County shall be named as an additional insured. The Contractor covenants and agrees to hold the County and its employees, agents

and officials harmless from loss or damage due to claims for bodily injury or death and/or property damage arising from, or in connection with, operations under this Contract.

Contractor shall keep itself fully informed of, and comply with, all existing and future Federal, State and Local Laws, ordinances, rules and regulations affecting Contractor and all of Contractor's employees, agents, and subcontractors engaged or employed on the Work, the materials and equipment used in the Work or the conduct of the Work, and of all orders, decrees and other requirements of bodies or tribunals having any jurisdiction or authority over the same. If any discrepancy or inconsistency is discovered in the Drawings, Specifications or other Contract Documents in relation to any such law, ordinance, rule, regulation, order, decree or other requirement, the Contractor shall forthwith report to the Highway Commissioner in writing. The Contractor shall at all times observe and comply with, and cause all his agents, servants and employees to observe and comply with all such existing and future laws, ordinances, rules, regulations, orders, decrees and other requirements and he shall protect, indemnify and save harmless the County, its officers, agents, servants, employees and the Highway Commissioner from and against any and all claims, demands, suits, liabilities, judgments, penalties, losses, damages, costs and expenses, including attorney's fee, arising from or based upon any violation or claimed violation of any such law, ordinance, rule regulation, order, decree or other requirements, whether committed by the Contractor or any of his agents, servants or employees.

Applicable provisions of Wisconsin State Statutes and Regulations and/or the United States Code and Code of Federal Regulations govern this contract and any provision in violation of the foregoing shall be deemed null, void and of no effect. Where conflict between Code of Federal Regulations and State Laws and Regulations exist, the more stringent requirement shall apply.

## **SECTION 00210**

### **GENERAL PROVISIONS**

#### **ARTICLE 1 - DEFINITIONS**

##### **§ 1.1 THE CONTRACT DOCUMENTS**

The Contract Documents consist of the Bidding and Contract Documents, all Addenda issued prior to and all Modifications issued after execution of the Contract, and all applicable laws, ordinances and regulations. A Modification is (1) a written amendment to the contract signed by both parties, (2) a Change Order, (3) a written interpretation issued by the County or (4) a written order for a minor change in the Work issued pursuant to Paragraph 7.3. In the event of a conflict among the Contract Documents, they shall be construed according to the following priorities: first – Modifications; second – Agreement; third – Addenda; fourth – General Provisions; fifth – specifications; sixth – Drawings [if any].

##### **§ 1.2 THE CONTRACT**

The Contract Documents represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. All Work mentioned or indicated in the Contract Documents shall be performed by the Contractor as part of this Contract unless it is specifically indicated in the

Contract Documents that such Work is to be done by others. Should the Contract or the Specifications disagree in themselves or with each other; the Contractor shall provide the better quality or greater quantity of Work unless otherwise directed by written addendum to the Contract.

### **§ 1.3 THE WORK**

The Work comprises the completed construction required by the Contract Documents and includes all labor necessary to produce such construction, and all materials and equipment incorporated or to be incorporated in such construction.

**§ 1.4 FINAL COMPLETION** - The work has been fully completed and ready for its intended use as required by Contract Documents and to the satisfaction of the County, and Contractor's other obligations under the Contract Documents have been fulfilled. If a tentative list of items to be completed or corrected was issued with a certificate by Substantial Completion or issued subsequent thereto, such items shall be completed or corrected before work is considered "fully completed."

### **§ 1.2 EXECUTION, CORRELATION AND INTENT**

**§ 1.2.1** By executing the Contract, the Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.

**§ 1.2.2** The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Work not covered in the Contract Documents will not be required unless it is consistent therewith and is reasonably inferable therefrom as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

**§ 1.2.3** Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

**§ 1.2.4** Where codes, standards, requirements and publications of public and private bodies are referred to in the Specifications, references shall be understood to be to the latest revision prior to the date of receiving bids, except where otherwise indicated.

**§ 1.2.5** Where no explicit quality or standards for materials or workmanship are established for Work, such Work is to be of good quality for the intended use and consistent with the quality of the surrounding Work and of the construction of the Project generally.

### **§ 1.3 OWNERSHIP AND USE OF DOCUMENTS**

All Drawings, Specifications and copies thereof furnished by the County are and shall remain the County's property. They are to be used only with respect to this Project and are not to be used on any other project without the prior written consent of the County. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of any reserved rights.

## **ARTICLE 2 - COUNTY'S REPRESENTATIVE**

§ 2.1.1 The designated representative of the County (Highway Commissioner, or his designee) will administer the Contract and visit the site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. However, the Highway Commissioner (or his designee) will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.

§ 2.1.2 The Highway Commissioner shall at all times have access to the Work wherever it is in preparation and progress. The Contractor shall provide facilities for such access so the County may perform its functions under the Contract Documents.

§ 2.1.3 The Highway Commissioner will render information necessary for the proper execution or progress of the Work within three (3) days of any request by the contractor or in accordance with any time limit agreed upon.

§ 2.1.4 The Highway Commissioner will have authority to reject Work which does not conform to the Contract Documents. Whenever, in his opinion, he considers it necessary or advisable for the implementation of the intent of the Contract Documents, he will have authority to require special inspection or testing of the Work in accordance with Section 4.5.2 whether or not such Work be fabricated, installed or completed. Any such rejection of work shall not relieve the Contractor of the responsibility for maintaining protection of the Work and the County's property.

§ 2.1.5 The Highway Commissioner will prepare Change Orders in accordance with Section 7.1 herein, and will have authority to order minor changes in the Work as provided in Section 7.3.

§ 2.1.6 The Highway Commissioner will conduct inspections to determine the date of Substantial Completion and Final Completion, will review written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of Section 9.4.

## **ARTICLE 3 - COUNTY**

### **§ 3.1 INFORMATION AND SERVICES REQUIRED OF THE COUNTY**

§ 3.1.1 The County shall, at the written request of the Contractor, prior to commencement of the Work and thereafter, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the County's obligations under the Contract.

§ 3.1.2 If necessary, The County shall furnish available surveys describing physical characteristics, legal limitations and a legal description of the site. Except as otherwise stated in the Contract Documents, the Contractor shall be entitled to reasonably rely on the accuracy of information furnished by the County except to the extent that the Contractor's review thereof reveals, or in the exercise of reasonable

diligence should have revealed, any inaccuracy or incompleteness therein. The Contractor shall exercise proper precautions relating to the safe performance of the Work.

### **§ 3.2 COUNTY'S RIGHT TO STOP THE WORK**

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Section 12.1.4 or persistently fails to carry out Work in accordance with the Contract Documents, the County may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the County to stop the Work shall not give rise to a duty on the part of the County to exercise this right for the benefit of the Contractor or any other person or entity. The Contractor shall resume the Work after such stoppage promptly upon written notice to do so from the County.

### **§ 3.3 COUNTY'S RIGHT TO CARRY OUT THE WORK**

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the County to commence and continue correction of such default or neglect with diligence and promptness, the County may, without prejudice to other remedies the County may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including County's expenses and compensation for the Highway Commissioner additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the County.

## **ARTICLE 4 - CONTRACTOR**

### **§ 4.1 GENERAL**

The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the County in the administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

### **§ 4.2 REVIEW OF CONTRACT DOCUMENTS BY CONTRACTOR**

**§ 4.2.1** The Contractor shall carefully study and compare the Contract Documents and shall at once report to the County any error, inconsistency or omission he may discover. If the Contractor performs any construction activity it knows or reasonably should know involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the County, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of the attributable costs for such correction.

**§ 4.2.2** Any claim by the Contractor or Subcontractors that, in submitting their respective bids, they did not include all items as shown in the Contract Documents, will be given no consideration for an adjustment of any kind. If any item is specified in a Section which would not normally furnish this item it shall be the responsibility of the Contractor to coordinate the situation with the Subcontractor, and if the item under consideration is not to be provided by the Subcontractor it shall be the responsibility of the Contractor to provide the work in question, without any additional cost to the County.



### **§ 4.3 SUPERVISION AND CONSTRUCTION PROCEDURES**

**§ 4.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention which shall not be less than such state of skill and attention generally rendered by the contracting profession for projects similar to the Project in scope, difficulty and location. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the County and Highway Commissioner and shall not proceed with that portion of the Work without further written instructions from the Highway Commissioner.

**§ 4.3.2** The Contractor shall be responsible to the County for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors this obligation shall also extend to the presence on the Site of suppliers of materials or equipment, their employees, contractors, and agents engaged in the Work.

### **§ 4.4 LABOR AND MATERIALS**

Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work, if applicable.

### **§ 4.5 WARRANTY**

**§ 4.5.1** The Contractor warrants to the County that materials and equipment furnished under the Contract will be of first quality, new, and not obsolete, discontinued or defective, unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents and, promptly after written notification of non-conformance, shall be repaired or replaced by the Contractor with Work conforming to such requirements. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the County, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

**§ 4.5.2** The Contractor shall be responsible for determining that all materials furnished for the Work meet all requirements of the Contract Documents. The County may require the Contractor to produce reasonable evidence that a material meets such requirements, such as certified reports of past tests by qualified testing laboratories, reports of studies by qualified experts, or other evidence which, in the opinion of the County, would lead to a reasonable certainty that any material used, or proposed to be

used, in the Work meets the requirements of the Contract Documents. All such data shall be furnished at the Contractor's expense.

§ 4.5.3 If the Contractor proposes to use a material which, while suitable for the intended use, deviates in any way from the detailed requirements of the Contract Documents, the Contractor shall inform the County in writing of the nature of such deviations at the time the material is submitted for approval.

§ 4.5.4 In informing the County of deviations or substitutions, the Contractor shall provide, upon request, evidence leading to a reasonable certainty that the proposed substitution or deviation will provide a quality of result at least equal to that otherwise attainable. If, in the opinion of the County, the evidence presented by the Contractor does not provide a sufficient basis for such reasonable certainty; the County may reject such substitution or deviation without further investigation.

§ 4.5.5 Any additional cost, or any loss or damage arising from the substitution of any material or any method for those originally specified shall be borne by the Contractor, notwithstanding approval or acceptance of such substitution by the County, unless such substitution was made at the written request or direction of the County.

§ 4.5.6 The warranty provided in this Section 4.5 shall be in addition to and not in limitation of any other warranty required by the Contract Documents or otherwise prescribed by law.

#### **§ 4.6 PERMITS, FEES AND NOTICES**

§ 4.6.1 If necessary, and unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for all permits and fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded.

§ 4.6.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work.

§ 4.6.3 If the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the County in writing, and necessary changes shall be accomplished by appropriate Modification.

§ 4.6.4 If the Contractor performs Work it knows or should know to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Highway Commissioner and County, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

#### **§ 4.7 CONTRACTOR'S CONSTRUCTION SCHEDULES**

The Contractor, within thirty (30) days after being awarded the Contract, shall discuss with the County a tentative construction schedule and timeline.

#### **§ 4.8 USE OF SITE**

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

#### **§ 4.9 CLEANING UP**

§ 4.9.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

§ 4.9.2 If the Contractor fails to clean up as provided in the Contract Documents, the County may do so and the cost thereof shall be charged to the Contractor.

#### **§ 4.10 INDEMNIFICATION**

§ 4.10.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the County and agents and employees from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work by the Contractor or Subcontractor(s). Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 4.10.

§ 4.10.2 In claims against any person or entity indemnified under this Section 4.10 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 4.10 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

### **ARTICLE 5 - SUBCONTRACTORS**

#### **§ 5.1 DEFINITIONS**

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor. The Contractor shall submit one copy of each of his subcontracts to the Highway Commissioner and demonstrate the subcontractor's ability to complete the portion of the work he/she is charged with. This shall include compliance with contract requirements.

#### **§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS**

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the County the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Highway Commissioner will promptly reply to the Contractor in writing stating whether or not the County or the Highway Commissioner, after due investigation, has reasonable objection to any such proposed person or entity.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the County has made reasonable and legally permissible and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the County has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the County has no reasonable objection.

§ 5.2.4 The Contractor shall not change a Subcontractor, person or entity previously selected if the County makes reasonable objection to such substitute.

### **§ 5.3 SUBCONTRACTUAL RELATIONS**

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the County. Each subcontract agreement shall preserve and protect the rights of the County under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the County. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

## **ARTICLE 6 - CONSTRUCTION BY COUNTY OR BY SEPARATE CONTRACTORS**

### **§ 6.1 COUNTY'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS**

§ 6.1.1 The County reserves the right to perform construction or operations related to the Project with the County's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these.

§ 6.1.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the County or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Highway Commissioner apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the County's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

## **ARTICLE 7 - CHANGES IN THE WORK / CLAIMS FOR ADDITIONAL COSTS**

### **§ 7.1 CHANGE ORDER**

§ 7.1.1 A Change Order is a written order to the Contractor signed by the County, issued after execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order.

§ 7.1.2 The County, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents and applicable State Statutes.

§ 7.1.3 Upon request of the County, the Contractor shall without cost to the County submit to the County, in such form as the County may require, an accurate written estimate of the cost of any proposed extra Work or change. The estimate shall indicate the quantity and unit cost of each item of materials, and the number of hours of work and hourly rate for each class of labor, as well as the description and amounts of all other costs chargeable under the terms of this Article. Unit labor costs for the installation of each item of materials shall be shown if required by the County. The Contractor shall promptly revise and resubmit each estimate if the County determines that it is not in compliance with the requirements of this Article, or that it contains errors of fact or mathematical errors. If required by the County, in order to establish the exact cost of new Work added or of previously required Work omitted, the Contractor shall obtain and furnish to the County bona fide proposals from recognized suppliers for furnishing any material included in such Work. Such estimates shall be furnished promptly so as to occasion no delay in the Work, and shall be furnished at the Contractor's expense. The Contractor shall state in the estimate any extension of time required for the completion of the Work if the change or extra work is ordered.

§ 7.1.4 The cost or credit to the County resulting from a change in the Work shall be determined in one or more of the following ways:

1. by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
2. by unit prices stated in the Contract Documents or subsequently agreed upon;
3. by cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
4. by the method provided in Section 7.1.5.

**§ 7.1.5** If none of the methods set forth in Section 7.1.4 are agreed upon, the Contractor, once he receives a written order signed by the County, shall promptly proceed with the Work involved. The cost of such Work shall then be determined by the County on the basis of the reasonable expenditures and savings of those performing the Work attributable to the change, including, in the case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Section 7.1.4 above, the Contractor shall keep and present an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: actual cost of materials, including sales tax and cost of delivery; labor, including social security, unemployment insurance, and fringe benefits required by agreement or custom; workers' compensation insurance; bond premiums, and rental value of equipment and machinery. The amount of credit to be allowed by the Contractor to the County for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

**§ 7.1.6** Unit prices shall be as stated in the Schedule of Prices and the Contract Documents shall include all costs of the Contractor to the County as listed in Section 7.1.5. No additional charges shall be allowed for these items under any circumstances.

## **§ 7.2 CONCEALED CONDITIONS**

Should concealed conditions encountered in the performance of the Work below the surface of the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown physical conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, be encountered, the Contract Sum shall be equitably adjusted by Change Order upon claim by either party made within twenty days after the first observance of the conditions.

## **§ 7.3 MINOR CHANGES IN THE WORK**

The County will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order, and shall be binding on the County and the Contractor. The Contractor shall carry out such written orders promptly, regardless of whether it objects to an absence of adjustment in the Contract Time or Contract Sum.

## **§ 7.4 CLAIMS FOR ADDITIONAL COSTS**

**§ 7.4.1** Definition. The word "Claim" shall mean a written demand by the Contractor for an increase in the Contract Time or the Contract Sum. The Contractor is responsible for substantiating its Claims. The word "Claim" shall not include claims by the County. The County may withhold from the Contractor the value of any claims against the Contractor.

**§ 7.4.2 Time Limits on Claims.** Contractor must initiate Claims within fourteen (14) calendar days after occurrence of the event giving rise to such Claim by written notice to the County. Such written notice

must (1) be signed by the Contractor; (2) conspicuously identify on its face that the notice serves as a notice of claim; (3) explain in sufficient detail the basis of the Claim; (4) identify the date of the event giving rise to such Claim; and (5) state the exact dollar amount of the increase in the Contract Sum being requested, if any, and the number of days extension to the Contract Time sought, if any. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property. No such claim shall be valid unless so made.

§ 7.4.3 If the Contractor claims that additional cost is involved because of, but not limited to, (1) any written interpretation by the County, (2) any order by the County to stop the Work where the Contractor was not at fault, (3) any written order for a minor change in the Work issued or (4) failure of payment by the County, the Contractor shall make such claim as provided in this Section 7.4.

## **ARTICLE 8 - TIME**

### **§ 8.1 DEFINITIONS**

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work shall be the date agreed upon between the County and Contractor or such other date as may be established in the Contract Documents.

§ 8.1.3 The Date of Substantial Completion of the Work or designated portion thereof is the Date certified by the County when construction is substantially complete, in accordance with the Contract Documents, other than only customary punch list items, the lack of or completion of which will not interfere with the County's use, so the County can lawfully occupy and utilize the Work or designated portion thereof for the use for which it is intended. The Date of Final Completion of the Work is the date on which the County issues its final Certificate for Payment in accordance with Section 9.4 hereof.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

### **§ 8.2 PROGRESS AND COMPLETION**

§ 8.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.

§ 8.2.2 The Contractor shall begin the Work on the date of commencement as defined in Section 8.1.2. He shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time, and Final Completion thereafter in accordance with the provisions of the Contract Documents. If the Contractor fails to keep pace with the construction schedule prepared pursuant to Section 4.7, the County may require the Contractor, at the Contractor's sole cost, to accelerate the progress of the work by adding personnel or increasing the hours of work or by other means acceptable to the County.

### **§ 8.3 DELAYS AND EXTENSIONS OF TIME**

**§ 8.3.1** If the Contractor claims that he is delayed at any time in the progress of the Work by any act or neglect of the County or by any employee of the County, or by any separate contractor employed by the County, or by changes ordered in the Work, or by labor disputes, fire, unavoidable casualties, or any causes beyond the Contractor's or its Subcontractor's control, or by delay authorized by the County, then, provided such delay in no way results from the act or neglect of the Contractor or any of its Subcontractors, the Contract Time may be extended by Change Order for such reasonable time as the County may determine.

**§ 8.3.2** If no agreement is made stating the dates upon which interpretations of the Contract Documents by the County shall be furnished, then no claim for delay shall be allowed on account of failure to furnish such interpretation until fifteen days after written request is made for them, and not then unless such claim is reasonable. The Contractor hereby agrees that the Contractor shall have no claim for damages of any kind against the County on account of any delay in the commencement or performance of the Work and/or any hindrance, delay or suspension of any portion of the Work, whether such delay is caused by the County, or otherwise. The Contractor acknowledges that the Contractor's sole remedy for any such delay and/or suspension will be an extension of time as provided in this Article.

#### **§ 8.4 LIQUIDATED DAMAGES**

It is expressly understood and agreed, by and between the Contractor and County, that the time for the completion of the Work described herein is a reasonable time for the completion of same, taking into consideration the average climatic range and usual industrial and/or residential conditions prevailing in this locality. If the said Contractor shall neglect, fail or refuse to substantially complete the Work within the times herein specified, or any proper extension thereof granted by the County, then the Contractor does hereby agree, as a part consideration for the awarding of this Contract, to pay to the County five-hundred dollars (\$500.00) per day, not as a penalty but as liquidated damages for such breach of contract, for each and every calendar day that the Contractor shall be in default after the time stipulated for completing the Work. The said amount is fixed and agreed upon by and between the Contractor and the County because of the impracticability of fixing and ascertaining the actual damages the County would in such event sustain, and said amount is agreed to be the amount of damages which the County would sustain and said amount shall be deducted by the County from periodic payments.

### **ARTICLE 9 - PAYMENTS AND COMPLETION**

#### **§ 9.1 CONTRACT SUM**

The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the County to the Contractor for performance of the Work under the Contract Documents.

#### **§ 9.2 APPLICATION FOR PAYMENT**

**§ 9.2.1** The Contractor shall submit to the County an itemized Application for Payment supported by such data substantiating the Contractor's right to payment upon belief that 100% of the construction is complete. The Application shall contain a separate line item or section for each subgrade category and a listing of the amount paid to each subcontractor as of the date of the Application, if applicable.

**§ 9.2.2** The Contractor warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the County either by incorporation in the construction or upon the



receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Article 9 as "liens"; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

### **§ 9.3 DECISIONS TO WITHHOLD CERTIFICATION**

**§ 9.3.1** The County shall withhold its Payment in whole or in part, to the extent necessary reasonably to protect itself. If the County is unable to make payment in the amount of the Application, he will notify the Contractor. If the Contractor and the County cannot agree on a revised amount, the County will issue a Certificate for Payment for the amount for which it determines is properly due. The County may also decline to make payment and the County, because of subsequently discovered evidence or subsequent observations, may nullify the whole or any part of any Certificate for Payment previously issued, to such extent as may be necessary in its opinion to the County from loss because of:

1. defective work not remedied,
2. third party claims filed or reasonable evidence indicating probable filing of such claims,
3. failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment,
4. damage to the County or another Contractor,
5. material failure to carry out the Work in accordance with the Contract Documents.
6. Work is not complete.

**§ 9.3.2** When the above grounds in Section 9.3.1 are removed, payment shall be made for amounts withheld because of them.

### **§ 9.4 FINAL COMPLETION AND PAYMENT**

**§ 9.4.1** Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of an Application for Payment, the Highway Commissioner will make such inspection and, when it finds the Work acceptable under the Contract Documents and the Contract fully performed, it will issue a final Certificate for Payment stating that to the best of its knowledge, information and belief, and on the basis of its observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said final Certificate, is due and payable.

**§ 9.4.2** Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the County data establishing payment or satisfaction of all obligations, receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the County. If any Subcontractor refuses to furnish a release or waiver required by the County, the Contractor may furnish a bond satisfactory to the County to indemnify him against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the County all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 9.4.3 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## **ARTICLE 10 - PROTECTION OF PERSONS AND PROPERTY**

### **§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS**

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

### **§ 10.2 SAFETY OF PERSONS AND PROPERTY**

§ 10.2.1 The Contractor shall take all reasonable precautions for safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

1. all employees on the Work and other persons who may be affected thereby;
2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
3. other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying County and users of adjacent sites and utilities. This provision does not apply to general signage notifying motorists of the construction project that are to be erected by the County.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy all damage or loss to any property caused in whole or in part by the Contractor, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible, except damage or loss solely attributable to the acts or omissions of the County, the Highway Commissioner or anyone directly or indirectly employed by the County or Consultant, or by anyone for whose acts the County or Highway Commissioner may be liable, and not attributable to the acts or omissions of the County, the Highway Commissioner or anyone directly or indirectly employed by them, or by anyone for whose acts it may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to his obligation under Article 4.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the County and Highway Commissioner and/or his designee.

§ 10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

§10.2.8 The Contractor shall at all times protect excavations, trenches, buildings and materials from rain water, groundwater, backup or leakage of sewers, drains and other piping, and from water of any other origin and shall remove promptly any accumulation of water. The Contractor shall provide and operate all pumps, piping and other equipment necessary to this end.

§ 10.2.9 The Contractor shall remove snow and ice which might result in damage or delay.

### **§ 10.3 HAZARDOUS MATERIALS**

If the Contractor encounters or recognizes on the site any material known or reasonably believed to be hazardous, including but not limited to asbestos or polychlorinated biphenyl (PCB), the Contractor shall immediately stop Work in the area affected and report the condition to the County in writing. The Contractor and the County shall cooperate in implementing measures to remove or contain said material and the Contractor shall comply with all directions of the County in the implementation of such removal or containment.

### **§ 10.4 EMERGENCIES**

In any emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 7 for Changes in the Work.

## **ARTICLE 11 - INSURANCE AND BONDS**

### **§ 11.1 CONTRACTOR'S LIABILITY INSURANCE**

§ 11.1.1 The Contractor shall purchase and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;

4. claims for damages insured by usual personal injury liability coverage;
5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
6. claims for damages because of bodily injury, death of a person or property damage arising out of County, maintenance or use of a motor vehicle;
7. claims for bodily injury or property damage arising out of completed operations;

§ 11.1.2 The insurance required by Section 11.1.1 shall include all major divisions of coverage, and shall be on a comprehensive general basis including Premises and Operations (including XC-U), County's and Contractor's Protective, Products and Completed Operations, and Owned, Non-owned, and Hired Motor Vehicles. Such insurance shall be written for not less than any limits of liability required by law or those set forth in Section 11.2.1, whichever is greater.

§ 11.1.3 All insurance shall be written on an occurrence basis, unless the County approves in writing coverage on a claims-made basis. Coverage's, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment. The County shall be added as an Additional Insured on all policies.

§ 11.1.4 Coverage for such liability insurance shall be provided by a company or companies reasonably acceptable to the County and authorized to do business in Wisconsin. Contractor shall furnish to County written confirmation as to the insurance carrier's most current financial ratings when it submits certificates of insurance.

§ 11.1.5 County shall be a named insured on all certificates of insurance. Certificates of insurance acceptable to the County shall be filed with the County prior to commencement of the Work. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverage's afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the County. If any of the foregoing insurance coverage's are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Section 9. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief. These certificates shall set forth evidence of all coverage required by Section 11. The Contractor shall furnish to the County copies of any endorsements that are subsequently issued amending limits of coverage.

## § 11.2 MINIMUM AMOUNT OF INSURANCE

§ 11.2.1 In no case shall the limits of liability for the insurance required by this section be less than:

Worker's Compensation:

- a. Coverage A: Limits – Statutory
- b. Coverage B: Employer's Liability Limits
- c. Bodily Injury by Accident - \$100,000 each accident minimum

- d. Bodily Injury by Disease - \$100,000 each employee minimum
- e. Bodily Injury by Disease - \$500,000 policy limit minimum

- a. Commercial General Liability:
 

|                    |             |
|--------------------|-------------|
| General aggregate: | \$1,000,000 |
| Bodily Injury      | \$1,000,000 |
| Property Damage:   | \$1,000,000 |
| Each Occurrence:   | \$1,000,000 |
- b. Automobile Liability:
 

|   |             |
|---|-------------|
| Bodily injury and property damage<br>and combined single limit for each person<br>and each accident | \$1,000,000 |
|---|-------------|

**ARTICLE 12 - UNCOVERING AND CORRECTION OF WORK**

**§ 12.1 CORRECTION OF WORK**

§ 12.1.1 The Contractor shall promptly correct all Work rejected by the County as defective or as failing to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including compensation for the County's additional services made necessary thereby.

§ 12.1.2 The Contractor shall provide a document to the County certifying that if within one year after the Date of Completion of the Work or designated portion thereof or within one year after acceptance by the County of designated equipment or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or requiring excessive service or maintenance or not in accordance with the Contract Documents, the Contractor shall correct it within seven (7) days after receipt of a written notice from the County to do so unless the County has previously given the Contractor a written acceptance of such approval, which written acceptance shall specifically refer to such defect. This obligation shall survive termination of the Contract. The County shall give such notice reasonably promptly after discovery of the condition. The provisions of this paragraph are in addition to, and not in limitation of, the County's other rights and remedies hereunder and in law and equity.

§ 12.1.3 The Contractor shall remove from the site all portions of the Work which are defective or non-conforming and which have not been corrected under Sections 4.5.1 and 12.2, unless removal is waived by the County in writing.

§ 12.1.4 If the Contractor fails to correct defective or nonconforming Work as provided in Sections 4.5.1, and this Article, the County may correct it in accordance with Section 3.2.

§ 12.1.5 The Contractor shall bear the cost of making good all work of the County or separate contractors destroyed or damaged by such correction or removal.

§ 12.1.6 Nothing contained in this Section 12.1 shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents,

including Section 4.5 hereof. Any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligation other than specifically to correct the Work.

### **§ 12.2 ACCEPTANCE OF NONCONFORMING WORK**

If the County prefers to accept defective or nonconforming Work, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## **ARTICLE 13 - MISCELLANEOUS PROVISIONS**

### **§ 13.1 GOVERNING LAW**

**§ 13.1.1** The Contract shall be governed by the law of the state of Wisconsin. All applicable provisions of Federal, state, or local laws, by-laws, rules, or regulations are incorporated into the Contract as if fully set forth herein.

**§ 13.1.2** Contractor understands and agrees that, because County is a party to this contract, provisions of the Wisconsin Open Records Law and other laws relating to public records may apply to records kept by Contractor. Contractor agrees to fully comply with such laws, and to cooperate with County in its compliance with such laws. Cooperation shall include, but not be limited to, the provision of records, or copies of records to County or others upon the request of county. Compliance and cooperation of Contractor shall be at its sole cost and expense.

### **§ 13.2 SUCCESSORS AND ASSIGNS**

The County and the Contractor each bind himself, his partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract or sublet it as a whole without the written consent of the County, nor shall the Contractor assign any moneys due or to become due to him hereunder, without the previous written consent of the County.

### **§ 13.3 WRITTEN NOTICE**

**§ 13.3.1** Any notice required by this Agreement shall be made in writing to the address specified below:

County: Tracy Hartman  
Oneida County Clerk  
P.O. Box 400  
Rhineland, WI 54501

With a Copy to: Oneida County  
Attn: Alex Hegeman

PO Box 696  
Rhineland, WI 54501

Contractor: (To be determined by Notice of Award and Acceptance thereof)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the person listed above for notice by either party changes, that party shall give notice to the other party of the new person to whom notice shall be given. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the parties.

**§ 13.4 RIGHTS AND REMEDIES**

§ 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 13.4.2 No action or failure to act by the County shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

**§ 13.5 LIMITATION OF LIABILITY**

The County shall be liable, if ever, only to the extent of its interest in the Project; and no officer, director, partner, agent or employee of the County shall ever be personally or individually liable with respect to this Contract or the Work. Each Subcontract shall include the foregoing limitation, which shall be effective if the County ever succeeds to the Contractor's rights and obligations under a Subcontract.

**§ 13.6 DEFENSE OF SUITS**

§ 13.6.1 The Contractor shall be responsible for, and shall defend and pay all costs, attorneys' fees and liabilities, both direct and indirect, as a result of litigation arising out of this Contract.

§ 13.6.2 Neither final acceptance nor occupation of the premises by the County shall relieve the Contractor of responsibility for all claims for labor, materials, and/or equipment arising out of this Contract.

§ 13.6.3 The Contractor shall indemnify and hold harmless the County and the Highway Commissioner and their agents and employees from and against all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting from the performance of the work.

**ARTICLE 14 - TERMINATION OR SUSPENSION OF THE CONTRACT**

## **§ 14.1 TERMINATION BY THE CONTRACTOR**

**§ 14.1.1** The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor because the County has failed to undertake any necessary work in order to prepare the roadway for the project as required.

**§ 14.1.2** If the above reason(s) exists, the Contractor may, upon seven additional days written notice to the County, terminate the Contract and recover from the County payment for the Work executed and for all materials or equipment not incorporated in the Work, but delivered and suitably stored at the site. The payment for materials or equipment stored at the site shall be conditioned upon submission by the Contractor of bills of sale or such other evidence as is satisfactory to the County to establish the County's title to such material or equipment or otherwise protect the County's interest.

## **§ 14.2 TERMINATION BY THE COUNTY FOR CAUSE**

**§ 14.2.1** The County may without prejudice to any other right or remedy deem this Contract terminated for cause if any of the following defaults shall occur and not be cured within ten (10) days after the giving of notice thereof by the County to the Contractor and any Surety that has given bonds in connection with this Contract:

1. The Contractor has filed a petition, or a petition has been filed against the Contractor with its consent, under any federal or state law concerning bankruptcy, reorganization, insolvency or relief from creditors, or if such a petition is filed against the Contractor without its consent and is not dismissed within sixty (60) days; or if the Contractor is generally not paying its debts as they become due; or if the Contractor becomes insolvent; or if the Contractor consents to the appointment of a receiver, trustee, liquidator, custodian or the like of the Contractor or of all or any substantial portion of its assets and such appointment or possession is not terminated within sixty (60) days; or if the Contractor makes an assignment for the benefit of creditors;
2. The Contractor refuses or fails, except in cases for which extension of time is provided under this Contract's express terms, to supply enough properly skilled workers or proper materials to perform its obligations under this Contract, or the County has determined that the rate of progress required for the timely completion of the Work is not being met;
3. The Contractor fails to make prompt payment to Subcontractors or for materials, equipment, or labor;
4. All or a part of the Work has been abandoned;
5. The Contractor has sublet or assigned all or any portion of the Work, the Contract, or claims thereunder, without the prior written consent of the County, except as expressly permitted in this Contract;
6. The Contractor has failed to comply with any applicable Laws, regulations or government orders;
7. The Contractor fails to maintain, or provide to the County evidence of the insurance or bonds required by this Contract, or
8. The Contractor has failed to prosecute the Work or any portion thereof to the standards required under this Contract or has otherwise breached any material provision of this Contract.



§ 14.2.2 The County shall give the Contractor and any Surety notice of such termination for cause, but the giving of notice of such termination shall not be a condition precedent or subsequent to the termination's effectiveness. In the event of such termination, and without limiting any other available remedies, the County may, at its option:

1. hold the Contractor and its sureties liable in damages for a breach of Contract;
2. notify the Contractor to discontinue all work, or any part thereof, and the Contractor shall discontinue all work, or any part thereof, as the County may designate;
3. complete the Work, or any part thereof, and charge the expense of completing the Work or part thereof, to the Contractor;
4. require the Surety or sureties to complete the Work and perform all of the Contractor's obligations under this Contract.

§ 14.2.3 Damages and expenses incurred under Section 14.2.2 above shall include, but not be limited to, costs for the design or extra engineering services and Project Manager services required, in the opinion of the County, to successfully inspect and administer the construction contract through final completion of the Work.

§ 14.2.4 Expenses charged under Section 14.2.2 above may be deducted and paid by the County out of any moneys then due or to become due the Contractor under this Contract.

§ 14.2.5 All sums damages, and expenses incurred by the County to complete the Work shall be charged to the Contractor. In case the damages and expenses charged are less than the sum that would have been payable under this Contract if the same had been completed by the Contractor, the Contractor shall be entitled to receive the difference. In case such expenses shall exceed the said sum, the Contractor shall pay the amount of the excess to the County.

### **§ 14.3 TERMINATION BY THE COUNTY FOR CONVENIENCE**

§ 14.3.1 The County may terminate this Contract for convenience even though the Contractor is not in default by giving notice to the Contractor specifying in said notice the date of termination. In the event that the Contract is terminated pursuant to Section 14.1, the Contractor shall be reimbursed in accordance with the Contract Documents for all Work performed up to the termination date, and for all materials or equipment not incorporated in the Work, but delivered and suitably stored at the site. Payment for materials or equipment stored at the site shall be conditioned upon submission by the Contractor of bills of sale or such other evidence as is satisfactory to the County to establish the County's title to such material or equipment or otherwise protect the County's interest. The payment provided in this section shall be considered to fully compensate the Contractor for all claims and expenses and those of any consultants, Subcontractors, and suppliers, directly or indirectly attributable to the termination, including any claims for lost profits.

§ 14.3.2 Upon termination of this Contract for convenience as provided in Section 14.3.1 of this Article, the Contractor shall: (1) stop the Work; (2) stop placing orders and Subcontracts in connection with this Contract; (3) cancel all existing orders and Subcontracts; (4) surrender the site to the County in a safe condition; (5) transfer to the County all materials, supplies, work in process, appliances, facilities,

equipment and machinery of this Contract, and all plans, Drawings, specifications and other information and documents used in connection with this Contract.

## **ARTICLE 15 - MISCELLANEOUS.**

### **§ 15.1 STANDARD OF CARE.**

The same degree of care, skill, and diligence shall be exercised in the performance of all obligations under this contract as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances.

### **§ 15.2 SURVIVAL.**

The warranties, representations and covenants of this Contract shall survive completion of the services under this agreement or any termination of this Contract.

### **§ 15.3 EQUAL EMPLOYMENT OPPORTUNITY.**

The Contractor hereby affirms its support of affirmative action and that it abides by the provisions of the "Equal Opportunity Clause" of Section 202 of Executive Order 11246 and other applicable laws and regulations. Contractor affirms its policy to recruit and hire employees without regard to race, age, color, religion, sex, sexual preference/orientation, marital status, citizen status, national origin or ancestry, presence of a disability or status as a veteran, including a veteran of the Vietnam era, membership in the national guard or reserve components of the military of the United States, political affiliation, or any other legally protected status. It is Contractor's policy to treat employees equally with respect to compensation, advancement, promotions, transfers and all other terms and conditions of employment. Contractor further affirms completion of applicable governmental employer information reports including the EEO-1 and VETS-100 reports, and maintenance of a current Affirmative Action Plan as required by Federal regulations. The Contractor must only comply with this section of the contract if required to do so by applicable law and regulation, including but not limited to Section 201 of executive order 11246.

### **§ 15.4 SEVERABILITY.**

The invalidity, illegality or unenforceability of any provision of this contract or the occurrence of any event rendering any portion or provision of this contract void shall in no way affect the validity or enforceability of any other portion or provision of this contract or any Task Order. Any void provision shall be deemed severed from this contract and the balance of this contract shall be construed and enforced as if it did not contain the particular portion or provision held to be void. The parties further agree to amend this contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire contract from being void should a provision which is of the essence of this contract be determined void.

### **§ 15.5 NO CONSTRUCTION AGAINST EITHER PARTY.**

This agreement is the product of negotiations between the parties and was either reached with the advice of legal counsel or the opportunity to obtain legal counsel, and shall not be construed against either party.

### **§ 15.6 MULTIPLE ORIGINALS.**

This contract may be executed in multiple originals, each of which together shall constitute a single agreement.

**§ 15.7 CAPTIONS.**

The parties agree that in this contract, captions are used for convenience only and shall not be used in interpreting or construing this contract.

**§ 15.8 NO PARTNERSHIP OR JOINT VENTURE.**

This contract shall not in any way be deemed to create a partnership or joint venture between the parties to the agreement.

**§ 15.9 LEGAL PROTECTIONS.**

It is agreed by the parties that nothing in this contract, including but not limited to indemnification and hold harmless clauses, shall in any way constitute a waiver on the part of the County of any immunity, liability limitation or other protection available to the County under any applicable statute or other law. To the extent that any provision of this contract is found by any court of competent jurisdiction to conflict with any such legal protection, then whichever protections, either legal or contractual, provide a greater benefit to the County shall apply unless the County elects otherwise.

**§ 15.10 COMPLIANCE WITH LAWS.**

The parties agree to comply with all applicable Federal, State and local codes, regulations, standards, ordinances, and other laws.

**§ 15.11 GRATUITIES – KICKBACKS – NON-COLLUSION:**

**§ 15.11.1** It shall be a breach of this contract and subsequent amendments for any person to offer, give, or agree to give anything of pecuniary value or to make an offer for employment to any elected official, employee, or former employee in connection with this contract, or to have given or agreed to have given anything of pecuniary value or to make an offer for employment to any elected official, employee, or former employee in connection with the bidding process which resulted in this contract.

**§ 15.11.2** It shall also be a breach of this contract for the bidder to have submitted a bid that is made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. Bidder also affirms that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid. Upon discovery of any violation listed above the County has the option, in its sole discretion, to immediately terminate the contract and/or declare the

bidder to no longer be a responsible bidder for future projects.

**§ 15.11.3** The above prohibitions shall extend, and cover without limitation, any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or a higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract, or order.

**§ 15.12 TIME OF THE ESSENCE.**

Except as otherwise specifically stated herein, time is of the essence with respect to all provisions of this contract that specify a time for performance.

**§ 15.13 CUMULATIVE REMEDIES.**

All rights and remedies provided in this agreement are cumulative and not exclusive of any other rights or remedies that may be available to the parties, whether provided by law, equity, statute, in any other agreement between the parties or otherwise.

**§ 15.14 SAFETY REQUIREMENTS.**

All materials, equipment and supplies provided to the County must fully comply with all safety requirements as set forth by the Wisconsin Department of Commerce and all applicable OSHA standards, and other applicable laws.

## SECTION 00220

### PROJECT SPECIFICATIONS

**Scope of Work.** The work under this contract consists of pulverizing, grading and compaction of existing asphaltic pavement, final grading and compacting of stabilized roadway, and supplying and laying approximately 10,700 tons of Super pave HMA PG 58-28 on Oneida County Highway N. This work begins at the intersection of CTH K and ends near the intersection of Washburn Lake Road, approximately 3.67 miles (See the map of approximate location at the end of this Section)

The work shall be executed under the requirements of the State of Wisconsin, Department of Transportation, Standard Specifications for Road and Bridge Construction, Edition of 2020 and the special provision specifications attached.

It is required that the contractor review the roads and work to be completed with the Oneida County Highway Commissioner prior to bidding, so both parties have a clear understanding of the work to be completed under this proposal.

### SPECIAL PROVISIONS

#### **1. CRUSHED AGGREGATE BINDER COURSE**

The County is responsible for preparing the roadway including stripping of shoulders, furnishing, hauling and placement of 2" or more of CABC on the road prior to pulverizing. Successful bidder shall begin pulverizing the road the following day. Failure to begin pulverizing the following day will result in a \$500 PER DAY liquidated damages charge to the contractor. The County will give the contractor 10 days advance notice prior to placement of the CABC material.

#### **2. PULVERIZING EXISTING ROADWAY**

The asphalt pavement shall be pulverized to a minimum depth of 6", or to the full depth of the existing asphalt, whichever is greater. Pulverizing shall be accomplished with a machine specifically designed for pulverizing pavements.

Pulverizing machine shall be capable of pulverizing up to 4" of crushed aggregate base course placed on top of the existing surface prior to pulverizing.

The pulverizing machine shall be self-propelled and equipped with electronic devices that will provide accurate depth, and slope control.

Material will be ground so that 97% of the grindings are two inch minus, and placed in a uniform windrow behind the machine.

Immediately after pulverizing, relay the material with a paver, grader or both. Grader shall be equipped with carbide shaping blade. Contractor will be responsible for road prep and final shaping immediately prior to paving.

Immediately after relaying, compact the re-laid material first with either a rubber tire roller or vibratory padfoot roller and second with a vibratory steel roller. Add water, as required, both before and during compaction. Price for pulverizing will include rough grading and final grading the entire roadbed width, watering, and compaction.

Once pulverizing begins, the contractor will be responsible for maintaining and grading the gravel lift and the pulverized material for traffic.

### **3. HOT MIX MATERIAL**

The paving work shall be executed under the requirements of the State of Wisconsin, Department of Transportation, Standard Specifications for Road and Structure Construction, 2020 Edition, Section 450 thru Section 465 excluding 460.2.8, with the following special provisions:

Use the HMA mix 4 MT 58-28 S for the surface layer and 4 MT 58-28 S for the lower layer. Contractor shall furnish HMA design report to the County prior to starting work. Contractor will take all responsibility for the roads hauled on by its trucks in the work on this project.

Asphalt transfer vehicle to be used to apply second layer as follows:

- A. Description: Furnish Material Transfer Vehicle (MTV) and an operator for use on this project during HMA pavement paving operations, as show in plans or directed by the highway commissioner, and as hereinafter provided.
- B. Materials: The MTV shall be self-propelled, remix and maintain constant temperature, and continually feed the paver hopper. The storage capacity shall be adequate to provide continuous forward movement of the paver. The paver speed shall be coordinated to match the delivery of material and capacity of MTV to limit stopping of the paver.
- C. Construction: An operator shall remain with the vehicle at all times during moving operations and the pavers hopper shall remain full at all times to avoid segregation of coarse aggregates. MTV shall be required to be used for top layer of HMA pavement installation.
- D. Cost: Payment for the MTV is incidental to HMA bid item

### **4. TRAFFIC CONTROL & SIGNAGE**

Oneida County will do end treatment signing on the project, the contractor will be responsible for the addition of work area signs as required when performing work on the roadway. The contractor is responsible for their own certified flag persons.

### **5. SCHEDULE OF WORK**

It is anticipated work shall begin after award and must be completed by August 31st, 2024

The contractor is required to maintain one access route for all residences and emergency vehicle equipment at all times.

## **6. TRUCKING ROUTES**

If Bidder considers town, city, or private roads in their routes used above, the bidder will assume all liability for any damages done to those roads and indicate so in the form of a letter to the Commissioner or Highway Committee, as well as a letter from the Town Board, City Counsel, or property owner in question, giving approval to haul on their roads. The letter (s) must be enclosed in a sealed envelope along with the bid. By bidding on this project, the Bidder on behalf of itself and its successors and assigns, hereby agrees to save and hold harmless the County, any of its departments, agencies, officers, board members and employees from all claims, losses, demands, damages, fees, charges, liability, injury and damage and costs of defense, by any of the above and from any other injury, claims, losses, demands, damages, fees, charges, liability, injury and damage and costs of defense, to any person or property whatsoever, any of which is caused by any hauling of materials for this project by the bidder, its agents or any of its independent contractors.

## **7. ON-SITE INSPECTION**

Prior to bidding on the Project the Bidder shall conduct an on-site investigation with the Highway Commissioner to review the area where the work is to be completed. Failure to conduct an on-site investigation with the Highway Commissioner will result in disqualification of the Bidder.

## **8. RIDE QUALITY**

### **A. Description**

(1) This special provision describes profiling pavements with a non-contact profiler, and determining the International Roughness Index (IRI) for each wheel path segment.

(2) Profile the final riding surface of all mainline pavements.

### **B. Construction**

#### **B.1 Quality Control Plan**

(1) Submit a written quality control plan to the county before paving begins. Ensure that the plan provides the following elements:

- a. The methods and timing used for monitoring and/or testing ride quality throughout the paving process.
- b. The evaluation process that will be used to make improvements to the construction operations if poor ride quality is found during the process control testing.
- c. The methods that will be used to ensure a smooth pavement transition when matching into existing surfaces such as bridges, bridge approaches, or railroad crossings.
- d. The segment locations of each profile run used for acceptance testing.
- e. The approximate timing of acceptance testing in relation to the paving operations.

#### **C.1 Personnel**

(1) Have a profiler operator, certified under WisDOT's highway technician certification program (HTCP), operate the equipment, collect the required data, and document the results using the methods taught in the HTCP profiling course.

## **C.2 Equipment**

(1) Furnish a profile-measuring device capable of measuring IRI from the list of WisDOT-approved devices published on the WisDOT's web site:

<http://roadwaystandards.dot.wi.gov/standards/qmp/index.htm>

(2) Calibrate the profiler according to the manufacturer's recommendations. Provide the county with a copy of the most recent calibration results, signed by the certified profiler operator.

(3) Perform daily calibration verification of the profiler using test methods according to the manufacturer's recommendations. Maintain records of the calibration verification activities, and provide the records to the county upon request.

## **C.3 Testing**

### **C.3.1 Run and Reduction Parameters**

(1) Enter the equipment-specific WisDOT-approved filter settings and parameters listed on WisDOT's ride web site.

(2) Call the county prior to final testing. County personnel reserve the right to observe and ride along with the contractor during final acceptance testing.

### **C.3.2 Contractor Testing**

(1) Operate profilers within the manufacturer's recommended speed tolerances. Perform all profile runs in the direction of travel. Measure the longitudinal profile of each wheel track of each lane. The wheel tracks are 6.0 feet apart and centered in the traveled way of the lane.

(2) Measure the profiles of each standard or partial segment. Define primary segments starting at a project terminus and running contiguously along the mainline to the other project terminus. Field-locate the beginning and ending points for each profile run. Define segments one wheel path wide and distinguished by length as follows:

1. Standard segments are 500 feet long.
2. Partial segments are less than 500 feet long.
  - a. Treat partial segments as independent segments.
  - b. The department will categorize each standard or partial segment as follows:

#### **Rural mainline segments:**

##### **Category Description**

HMA II: Asphalt pavements with multiple opportunities to achieve a smooth ride. The following operations performed under this contract are considered as opportunities: a layer of HMA, a leveling or wedging layer of HMA, and diamond grinding or milling of the underlying pavement surface.



HMA III: Asphalt pavement segments containing any portion of a bridge, bridge approach, railroad crossing, or intersection. An intersection is defined as the area within the points of curvature of the intersection radii.

### **C.3.3 Documenting Profile Runs**

Compute the IRI for each segment and analyze using the ProVAL software. Within 5 business days after completing a final acceptance profile run, submit a copy of the ProVAL smoothness assurance report showing the IRI for each segment. The ProVAL software and WisDOT-specified inputs are available on the WisDOT's web site:

<http://roadwaystandards.dot.wi.gov/standards/qmp/index.htm>

## **C.4 Corrective Actions**

### **C.4.1 General**

Correct the ride as the county directs. The county will independently assess whether a repair will help or hurt the long-term pavement performance and/or public perception of the ride before deciding on corrective action.

### **C.4.2 Corrective Actions for Excessive IRI**

(1) If an individual segment IRI exceeds 140 in/mile for HMA II, the engineer may require the contractor to correct that segment. Correct the segment final surface as follows:

HMA II: Correct to an IRI of 60 in/mile using whichever of the following methods the county directs:

- Mill and replace the full lane width of the riding surface excluding the paved shoulder.
- Correct the full lane width using techniques approved by the County.

(2) Re-profile corrected segments to verify that the final IRI meets the above correction limits. Submit a revised ProVAL smoothness assurance report for the corrected areas to validate the results.

## **D. Measurement**

(1) The department will measure disincentive IRI Ride by the dollar, adjusted as specified in E.2.

## **E. Payment**

### **E.1 Payment for Profiling**

Costs for furnishing and operating the profiler, documenting profile results, and correcting the final pavement surface are incidental to the contract.

### **E.2 Pay Adjustment**

(1) The county will administer disincentives for ride on HMA II segments.

(2) The county will not assess disincentive on HMA III segments.

(3) The county will adjust pay for each segment based on the initial IRI for that segment before any corrective action is taken. The department will base disincentives on the IRI after correction for pavement meeting the following conditions:

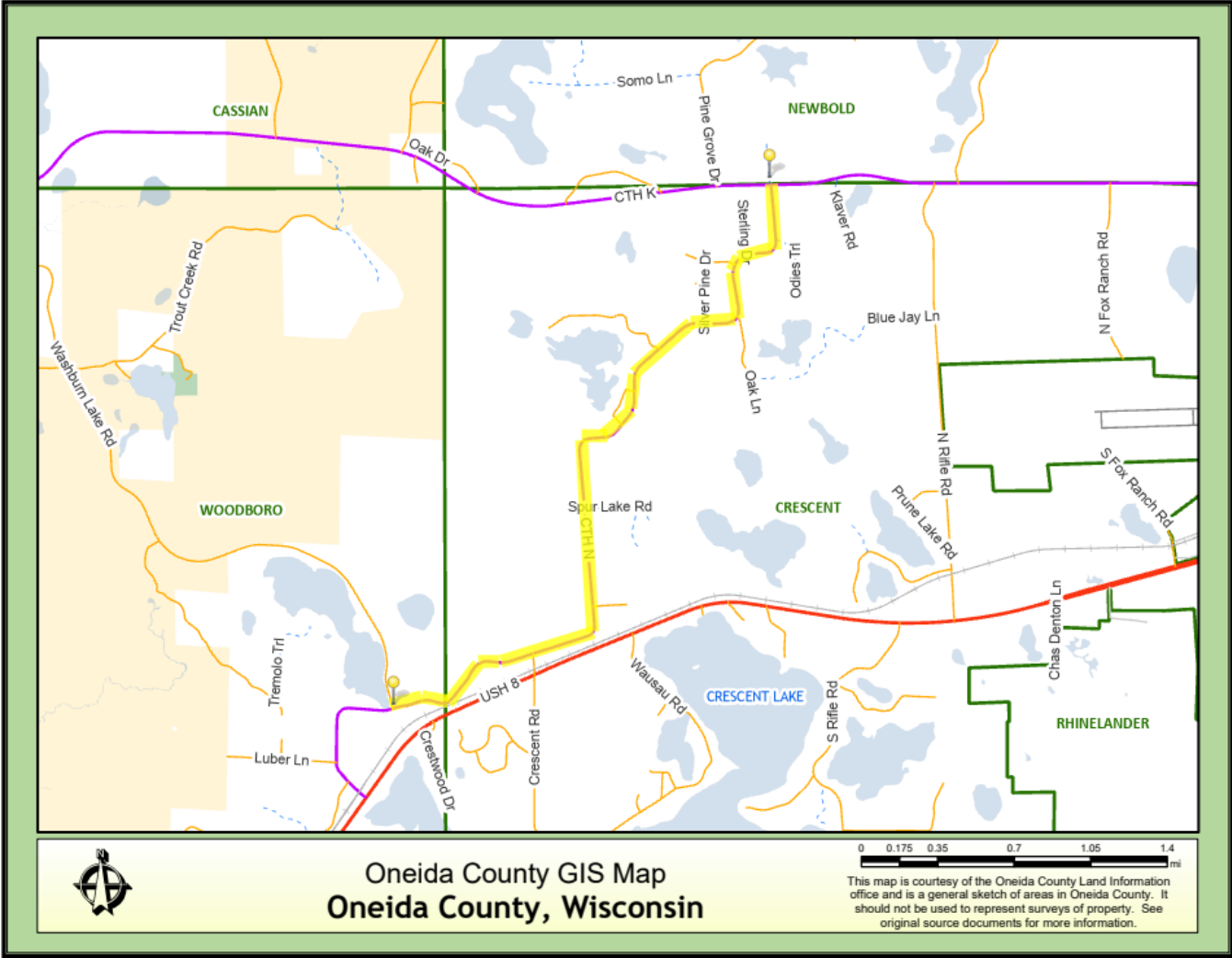
- The corrective work is performed in a contiguous, full lane width section 500 feet long, or a length as agreed with the county.
- The corrective work is a mill and inlay or full depth replacement and the inlay or replacement layer thickness conforms to standard spec 460.3.2.

(4) The county will adjust pay for 500-foot long standard segments nominally one wheel path wide as follows:

| <b>HMA II</b>                        |  |
|--------------------------------------|--|
| <b>Initial IRI<br/>(inches/mile)</b> | <b>Pay Adjustment<br/>(dollars per standard segment)</b> |
| ≥ 0 to < 50                          | 0  |
| ≥ 50 to < 75                         | 500 – (10 x IRI)   |
| ≥ 75 to <140                         | -250   |
| Over 140                             | Complete replace   |

(5) The county will prorate the pay adjustment for partial segments based on their length.

# MAP



Oneida County GIS Map  
Oneida County, Wisconsin

0 0.175 0.35 0.7 1.05 1.4 mi  
This map is courtesy of the Oneida County Land Information office and is a general sketch of areas in Oneida County. It should not be used to represent surveys of property. See original source documents for more information.

**SECTION 00230**

**CHANGE ORDER FORM**

Page 1 of 2

Project Number \_\_\_\_\_

Change Order Number \_\_\_\_\_

Contract Amount (As Bid).....\$ \_\_\_\_\_

Net Change in Contract Price (this Change Order).....\$ \_\_\_\_\_

Net Change in Contract Price (all other Change Orders).....\$ \_\_\_\_\_

Total Adjusted Contract Price.....\$ \_\_\_\_\_

This Change Order extends the time to complete the Work by \_\_\_\_\_ calendar days.

The extended completion date is \_\_\_\_\_.

This Change Order checked by: \_\_\_\_\_.

This Change Order is requested by: \_\_\_\_\_.

This Change Order is recommended by \_\_\_\_\_.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

The undersigned agree to the terms of the Change Order and certifies that such Change Order is approved.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
County

\_\_\_\_\_  
Date

Certification of Appropriation: Adequate funding in an amount sufficient to cover the total cost of this Change Order is available.

By: \_\_\_\_\_

\_\_\_\_\_  
Certification Officer

\_\_\_\_\_  
Date

CHANGE ORDER FORM

Change Order Number \_\_\_\_\_

Contract Title: 2024 County Highway N Project

Owner's Name: Oneida County  
Owner's Address: Oneida County Highway Department  
Attn: Alex Hegeman  
730 W. Kemp St.  
Rhinelander, WI 54501

Contractor's Name: \_\_\_\_\_

Contractor's Address: \_\_\_\_\_

Description of Change

Reason for Change

**SECTION 00240**

CERTIFICATE OF FINAL COMPLETION OF WORK

Contract Title: 2024 County Highway N Project

Completion Date Per Agreement And Change Orders \_\_\_\_\_.

FINAL CERTIFICATION OF CONTRACTOR

I hereby certify that the amount of \_\_\_\_\_ as the Final payment Request for construction Contract Work dated \_\_\_\_\_, represents full compensation for the actual value of Work completed. All Work completed conforms to the terms of the Agreement and authorized changes. I also hereby certify that the prevailing wage laws were complied with and attached hereto is a completed ERD-10584 for the Awarding Authority.

\_\_\_\_\_  
Date

\_\_\_\_\_  
CONTRACTOR

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
Title

FINAL ACCEPTANCE OF COUNTY

I, as representative of the County, accept the above Final Certifications and authorize Final Payment in the amount of \$ \_\_\_\_\_ under these Contract Documents. The guaranty for all Work completed subsequent to the date of Substantial Completion, expires one (1) year from the date of this Final Acceptance. Final Payment also indicates receipt of a completed ERD-10584 form.

Date: \_\_\_\_\_

HIGHWAY DEPARTMENT  
ONEIDA COUNTY, WISCONSIN

\_\_\_\_\_  
Alex Hegeman, Highway Commissioner

END OF SECTION