

AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 20____, by and between the **COUNTY OF CORTLAND**, New York, (the “COUNTY”), a municipal corporation organized and existing under the laws of the State of New York with offices at 60 Central Avenue, Cortland, New York 13045, and _____, (the “CONTRACTOR”), with offices located at _____.

WITNESSETH, that the COUNTY and the CONTRACTOR, for the consideration hereafter named, agree as follows:

ARTICLE 1. WORK TO BE DONE AND CONSIDERATION THEREFORE

The CONTRACTOR shall furnish
(Describe the work to be done; if a proposal for the work exists, attach same as an exhibit and cite said exhibit herein.)

ARTICLE 2. TERM

The CONTRACTOR agrees to perform the services and/or supply goods beginning _____, 20__ and ending _____, 20____.

ARTICLE 3. ACCEPTANCE AND FINAL PAYMENT

Upon receipt of written notice that the Contract has been fully performed and the COUNTY agrees that the Contract has been fully performed, the CONTRACTOR shall file with the COUNTY an itemized voucher and the COUNTY shall pay the CONTRACTOR \$ _____ within its normal payment period.

ARTICLE 4. CONTRACTOR’S INSURANCE

The CONTRACTOR shall not commence work under this Contract until he/she/it has obtained all insurance required under this paragraph and the COUNTY has approved such insurance. The COUNTY requires the following insurance coverage and amounts:

- (A) Comprehensive General Liability, including personal injury coverage of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate and property damage coverage in the amount of \$500,000.00 per occurrence and \$1,000,000.00 in the aggregate.
- (B) Automobile coverage with a combined single limit of \$1,000,000.00.
- (C) Statutory Worker’s Compensation Disability Coverage, and Unemployment Insurance.
- (D) Professional Liability Insurance in the amount of \$1,000,000.00 where applicable.

The CONTRACTOR shall submit at the time of the execution of this agreement, certificates of insurance properly executed by an authorized representative of its insurance underwriter, evidencing such insurance policies to be in full force and effect, naming the COUNTY which shall assume to include its officers, employees, agents and representatives as additional insured. The certificates of insurance shall name specifically "Cortland County, 60 Central Avenue, Cortland, New York 13045" as an additional insured.

Notice of termination of any such policies must be provided to the COUNTY at least ten (10) days in advance. CONTRACTOR shall, on or before this 10-day period, provide the COUNTY with a prospective Certificate of Insurance with the above coverage and limits for the balance of the term of this agreement.

All insurance coverage required to be purchased and maintained by the CONTRACTOR under this agreement shall be primary for the defense and indemnification on any action or claim asserted against the COUNTY and/or the CONTRACTOR for work performed under this agreement, regardless of any other collectible insurance or any language in the insurance policies which may be to the contrary.

Any accident shall be reported to the COUNTY as soon as possible and not later than twenty-four (24) hours from the time of such accident. A detailed written report must be submitted to the COUNTY as soon thereafter as possible and not later than three (3) days after the date of such accident.

ARTICLE 5. REPRESENTATIONS OF CONTRACTOR

The CONTRACTOR represents and warrants:

- (A) That he/she/it is financially solvent and that he/she/it is experienced in and competent to perform the services as described in Article 1 above,
- (B) That he/she/it is familiar with all Federal, State, municipal and departmental laws, ordinances and regulation which may in any way affect the work or those employed therein.

ARTICLE 6. PERMITS AND REGULATIONS

The CONTRACTOR shall procure and pay for all permits and licenses necessary for the services to be rendered hereunder.

ARTICLE 7. COUNTY’S RIGHT TO STOP WORK OR TERMINATE CONTRACT

The COUNTY shall have the right to stop work or terminate the Contract if:

- (A) The CONTRACTOR is adjudged bankrupt or makes an assignment for the benefit of creditors; or
- (B) A receiver or liquidator is appointed for the CONTRACTOR or for any of his/her/it’s property and is not dismissed within twenty (20) days after such appointment or the proceedings in connection therewith are not stayed on appeal within said twenty (20) days; or
- (C) The CONTRACTOR refuses or fails to prosecute the work or any part thereof with due diligence; or
- (D) The CONTRACTOR fails to make prompt payment to persons supplying labor for the work; or
- (E) The CONTRACTOR fails or refuses to comply with all applicable laws or ordinances; or
- (F) The CONTRACTOR violates any provision of the Contract;
- (G) In any event, the COUNTY, without prejudice to any other rights or remedy it may have, may by seven (7) days notice to the CONTRACTOR, terminate this contract pursuant to the grounds stated herein. In such case, the CONTRACTOR shall not be entitled to receive any further payment until the work is complete. If the unpaid balance of the compensation to be paid to the CONTRACTOR hereunder exceeds the expense of completing the work, such excess shall be paid to the CONTRACTOR. If such expense exceeds such unpaid balance, the CONTRACTOR shall be liable to the COUNTY for such excess.
- (H) COUNTY may terminate this contract upon thirty (30) days written notice to the CONTRACTOR if deemed in the best interest of the COUNTY.
- (I) COUNTY may terminate if the contract is not funded.

ARTICLE 8. INDEMNIFICATION / HOLD HARMLESS

The CONTRACTOR shall indemnify, defend and hold the COUNTY, its Departments, and its officers, employees, contractors, representatives and agents harmless from and against any and all claims, fines, demands, losses, damages and expenses, including attorney’s fees, relating to or arising out of any negligent or intentional acts and/or omissions of the CONTRACTOR or any of its directors, officers, employees, contractors, representatives, or agents.

ARTICLE 9. INDEPENDENT CONTRACTOR

The CONTRACTOR, including all its officers, employees and agents agrees that their relationship to the COUNTY and any of its Departments or units, is that of an independent contractor, and said CONTRACTOR covenants and agrees that they will not conduct themselves as, nor hold themselves out as, nor claim to be an officer or employee of the COUNTY by reason hereof and that they will not claim, demand or make an application to or for any right or privilege applicable to an officer or employee of the COUNTY, including, but not limited to, Worker's Compensation coverage, Unemployment Insurance benefits, Social Security coverage, medical and/or dental benefits, or retirement membership or credit.

ARTICLE 10. ASSIGNMENT

Neither party may assign or sub-contract this contract or any portion thereof, without prior written consent of the other party hereto.

ARTICLE 11. REQUIRED PROVISIONS OF LAW

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to have been inserted herein. If any such provision is not inserted, through mistake or otherwise, then upon the application of either party, this Contract shall be physically amended to make such insertion.

ARTICLE 12. VENUES AND DISPUTES

The exclusive means of disposing of any dispute arising under this Agreement shall be decided in a New York State Court of competent jurisdiction located within Cortland County, New York. There shall be no right to binding arbitration. Pending final resolution of a dispute, the CONTRACTOR shall proceed diligently with performing the terms of this Agreement. The CONTRACTOR waives any dispute or claim not made in writing and received by the COUNTY within thirty (30) days of the occurrence giving rise to the dispute or claim. The claim must be in writing for a sum certain and any money requested must be fully supported by all cost and pricing information.

ARTICLE 13. REMEDIES

The remedies specified herein shall be cumulative and in addition to any other remedies available of law or in equity. Waiver of a breach of any provision of this Agreement shall not constitute a waiver of any other or future breach of the same provision or any other provision of the Agreement.

ARTICLE 14. NOTICES

All notices of any nature referred to in this agreement shall be in writing and sent by registered or certified mail, postage pre-paid, to the respective addresses set forth below or to such other addresses as the respective parties may designate in writing.

To the CONTRACTOR:

To the COUNTY:

Chairman of the Legislature
County of Cortland
60 Central Avenue
Cortland, New York 13045

ARTICLE 15. SEVERABILITY

In the event any provision hereof shall be held for any reason to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect the remaining provisions of this agreement, which shall continue in full force and effect.

ARTICLE 16. WAIVER

No waiver of any breach of any condition of this Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

ARTICLE 17. MODIFICATION

This Agreement constitutes the complete understanding of the parties. No modification of any provisions thereof shall be valid unless in writing and signed by both parties.

ARTICLE 18. EXECUTORY CLAUSE

The COUNTY shall have no liability under this Agreement to the CONTRACTOR or to anyone else beyond funds appropriated and available for this Agreement.

ARTICLE 19. RECORDS RETENTION AND AUDIT

The CONTRACTOR agrees to retain all books, records and/or other documents relevant to this Agreement for six (6) years after the expiration or termination of this agreement or six (6) years after final payment, whichever is later, unless otherwise agreed to by the parties in writing. New York State auditors and/or any other persons duly authorized by the COUNTY shall have full access to and the right to examine any of the above-mentioned documents during the above-stated time period.

ARTICLE 20. APPLICABLE LAW

This Agreement is governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate (2 copies) each of which shall be deemed an original on the date written.

COUNTY OF CORTLAND

DATE: _____

BY: _____
Robert J. Williams, Chairman,
Cortland County Legislature

Acknowledgement

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

On this _____ day of _____, 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared **Robert J. Williams**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

CONTRACTOR
(name of company)

DATE: _____

BY: _____

(NAME OF SIGNATORY)

(CORP. OFFICER/POSITION)

Acknowledgement

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

On this _____ day of _____, 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public