

# SUFFOLK COUNTY BID REQUEST

BID/LETTING #: 20/0193

## ANNUAL REQUIREMENTS CONTRACT-DOG FOOD

**INVITATION:** THIS IS AN INVITATION TO SUBMIT A SEALED BID FOR THE FURNISHING OF SUPPLIES, EQUIPMENT, SERVICES AND/OR MATERIAL + LABOR SUBJECT TO THE TERMS AND CONDITIONS AND SPECIAL INSTRUCTIONS OF THIS BID. BIDS MUST BE RECEIVED AND DATE STAMPED PRIOR TO THE PUBLIC BID OPENING AT 11:00 AM ON MONDAY, JUNE 29, 2020

MAIL OR DELIVER BIDS/LETTINGS TO:  
COUNTY OF SUFFOLK, NY – DEPARTMENT OF PUBLIC WORKS  
PURCHASING OFFICE, 335 YAPHANK AVENUE, YAPHANK NY 11980-9744

MARK BIDS/LETTINGS AS FOLLOWS: DELIVERY TO: YAPHANK, NY AND RIVERHEAD, NY

RUSH BID TO PA: MARY OLAFSEN-FREY REQUIRED DELIVERY DATE: STATE BEST

OPENING DATE: 6/29/2020 STATE BEST DELIVERY: \_\_\_\_\_

BID/LETTING #: 20/0193 FOR ADDITIONAL INFORMATION CONTACT:

NIGP CODE: 32525 **Mary.Olafsen-Frey@suffolkcountyny.gov**

**ONLY THE FOLLOWING ITEMS MUST BE FILLED OUT AND THE ORIGINAL COPIES SUBMITTED WITH THIS BID.**

- *221B- BID REQUEST FORM – SIGNED IN INK*
- *ALL PAGES WITH PRICING, WAGES, AND MODEL NUMBERS; ALONG WITH SPECIFICATIONS FOR ANY ALTERNATE BIDS*

**THE FOLLOWING FORMS WILL BE REQUIRED FROM THE LOW BIDDER ONLY UPON REQUEST.**

- *SCEX FORM 22 – PUBLIC DISCLOSURE STATEMENT (MUST BE NOTARIZED)*
- *FTS FORM – STATEMENT OF NON-COLLUSION*
- *DOL – LO1 UNION ORGANIZATION CERTIFICATE / DECLARATION*
- *DOL-LHE1/2 – LAWFUL HIRING (MUST BE NOTARIZED)*
- *LL52-2012 DISQUALIFICATION OF NON-RESPONSIVE BIDDERS*
- *LOBBYING CERTIFICATION FORM*

**BIDDER'S ACCEPTANCE** – ALL BIDS MUST BE SIGNED IN INK.

THE UNDERSIGNED OFFERS AND AGREES TO FURNISH ANY OR ALL OF THE ITEMS AND/OR SERVICES ON WHICH PRICES ARE QUOTED, AT THE PRICE AND DELIVERY TIME INDICATED, SUBJECT TO THE TERMS AND CONDITIONS HEREIN.

\_\_\_\_\_  
FIRM NAME – PRINT ABOVE

\_\_\_\_\_  
FEDERAL TAX ID NUMBER

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY STATE ZIP

\_\_\_\_\_  
PHONE NUMBER

\_\_\_\_\_  
FAX NUMBER

\_\_\_\_\_  
E-MAIL ADDRESS

\_\_\_\_\_  
WEBSITE ADDRESS

\_\_\_\_\_  
CONTACT NAME - PRINT

\_\_\_\_\_  
AUTHORIZED SIGNATURE DATE

**ANNUAL REQUIREMENTS CONTRACT-DOG FOOD**

- OR EQUAL – MANUFACTURERS LISTED ARE FOR REFERENCE PURPOSES ONLY. VENDORS BIDDING ALTERNATES TO THE MODELS SPECIFIED MUST PROVIDE COMPLETE SPECIFICATIONS WITH THEIR BID. ANY EXCEPTIONS TAKEN TO ANY PART OF THESE SPECIFICATIONS MUST BE FULLY EXPLAINED IN WRITING AND RETURNED WITH THE BID. FAILURE TO DO SO MAY BE CAUSE FOR DISQUALIFICATION.
- THE BIDDERS REPLY IS TO REMAIN IN EFFECT FOR 90 DAYS AFTER THE BID OPENING DATE.
- THE CONTRACT SHALL BE FOR A PERIOD OF ONE (1) YEAR AND MAY BE EXTENDED UP TO FOUR (4) TIMES, FOR INDIVIDUAL TERMS NOT TO EXCEED ONE YEAR, BY MUTUAL AGREEMENT BETWEEN THE CONTRACTOR AND SUFFOLK COUNTY. THE ORIGINAL CONTRACT PERIOD, PLUS EXTENSIONS, SHALL NOT EXCEED FIVE (5) YEARS TOTAL.
- THE COUNTY RESERVES THE RIGHT TO AWARD FUTURE CONTRACTS/PURCHASE ORDERS TO THE NEXT LOW BIDDER IN THE EVENT OF DEFAULT OR CANCELLATION OF A PREVIOUSLY AWARDED CONTRACT/PURCHASE ORDER.
- SUFFOLK COUNTY RESERVES THE RIGHT TO ADD OR REMOVE LOCATIONS
- SUFFOLK COUNTY RESERVES THE RIGHT TO AWARD THIS BID TO SINGLE OR MULTIPLE VENDORS, IN WHOLE OR IN PART, BY ITEM, BY CLASS, BY CATEGORY, OR TO ESTABLISH PRIMARY AND SECONDARY CONTRACTS.
- BIDS SUBMITTED WHICH INCLUDE CONDITIONS, EXCEPTIONS OR QUALIFICATIONS, SHALL BE DEEMED NON-RESPONSIVE AND MAY BE REMOVED FROM THE BID AWARD PROCESS.
- REFER TO INSTRUCTIONS TO BIDDERS AND/OR GENERAL CONDITIONS FOR FURTHER INFORMATION.

ITEM #	DESCRIPTION	NIGP CODE	MANUFACTURER	PART#	SIZE	PACKING	UNIT	PRICING
1	GRAIN FREE DOG FOOD SOUTHWEST CANYON CANINE FORMULA (PICKED UP)	32525	TASTE OF THE WILD			30 LB	BAG	\$
2	GRAIN FREE DOG FOOD SOUTHWEST CANYON CANINE FORMULA (DELIVERED)	32525	TASTE OF THE WILD			30 LB	BAG	\$
3	GRAIN FREE DOG FOOD HIGH PRAIRE CANINE FORMULA (PICKED UP)	32525	TASTE OF THE WILD			30 LB	BAG	\$
4	GRAIN FREE DOG FOOD HIGH PRAIRE CANINE FORMULA (DELIVERED)	32525	TASTE OF THE WILD			30 LB	BAG	\$
5	GRAIN FREE DOG FOOD PACIFIC STREAM CANINE FORMULA (PICKED UP)	32525	TASTE OF THE WILD			30 LB	BAG	\$
6	GRAIN FREE DOG FOOD PACIFIC STREAM CANINE FORMULA (DELIVERED)	32525	TASTE OF THE WILD			30 LB	BAG	\$
7	GRAIN FREE DOG FOOD WETLANDS CANINE FORMULA (PICKED UP)	32525	TASTE OF THE WILD			30 LB	BAG	\$
8	GRAIN FREE DOG FOOD WETLANDS CANINE FORMULA (DELIVERED)	32525	TASTE OF THE WILD			30 LB	BAG	\$
9	GRAIN FREE DOG FOOD SIERRA CANINE FORMULA (PICKED UP)	32525	TASTE OF THE WILD			30 LB	BAG	\$
10	GRAIN FREE DOG FOOD SIERRA CANINE FORMULA (DELIVERED)	32525	TASTE OF THE WILD			30 LB	BAG	\$
11	DRY DOOG FOOD SYNERGY PREMIUM PERFORMANCE FORMULA (PICKED UP)	32525	NATURAL BALANCE	55328		28 LB	BAG	\$
12	DRY DOOG FOOD SYNERGY PREMIUM PERFORMANCE FORMULA (DELIVERED)	32525	NATURAL BALANCE	55328		28 LB	BAG	\$
13	DRY DOG FOOD LIMITED INGREDIENTS DIET LAMB MEAL AND BROWN RICE FORMULA (PICKED UP)	32525	NATURAL BALANCE	78728		28 LB	BAG	\$
14	DRY DOG FOOD LIMITED INGREDIENTS DIET LAMB MEAL AND BROWN RICE FORMULA (DELIVERED)	32525	NATURAL BALANCE	78728		28 LB	BAG	\$
15	DRY DOG FOOD SWEET POTATO/FISH (PICKED UP)	32525	NATURAL BALANCE	2363342037		26 LB	BAG	\$

ITEM #	DESCRIPTION	NIGP CODE	MANUFACTURER	PART#	SIZE	PACKING	UNIT	PRICING
16	DRY DOG FOOD SWEET POTATO/FISH (DELIVERED)	32525	NATURAL BALANCE	2363342037		26 LB	BAG	\$
17	BISCUITS PRO ACTIVE HEALTH ADULT (PICKED UP)	32525	IAMS	19220		20 LB	BOX	\$
18	BISCUITS PRO ACTIVE HEALTH ADULT (DELIVERED)	32525	IAMS	19220		20 LB	BOX	\$

**DOG FOOD**

**MINIMUM NUTRITIONAL VALUE**

CRUDE PROTEIN – NO LESS THAN 23%  
CRUDE FAT – NO LESS THAN 12% AND NO MORE THAN 16%  
CRUDE FIBER – NO MORE THAN 5%  
CONTAINES CHELATED VITAMINS AND MINERALS  
MINIMUM CALORIC CONTENT 325KCAL/CUP  
CHICKEN, BEEF, LAMB, VENISON, BISON OR FISH AS 1<sup>ST</sup> INGREDIENT  
NO MEAL OR BY-PRODUCTS AS 1<sup>ST</sup> INGREDIENT

**PREFERRED BRANDS**

BLUE BUFFALO WILDERNESS  
CANIDAE GRAIN FREE PURE  
CANIDAE SINGLE GRAIN PROTEIN PLUG  
EAGLE PACK  
EVO  
HOLISTIC BLEND  
IAMS/EUKANUBA  
NATURAL BALANCE  
NATURES SELECT GRAIN FREE  
NUTRO ULTRA

**RIGHT NOW WE HAVE 23 DOGS, WE USE APPROXIMATELY 35 lbs OF DOG FOOD PER DOG, PER MONTH.**

**SUFFOLK COUNTY DEPARTMENT OF PUBLIC WORKS YAPHANK, NEW YORK**

**EXHIBIT A - INSTRUCTION TO BIDDERS AND GENERAL SPECIFICATIONS TO BE COMPLIED WITH WHERE APPLICABLE**

**1. Elements of Interpretation**

As used throughout the Contract:

- A.** Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa. Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons, and shall include successors and assigns.
- B.** Capitalized terms used, but not otherwise defined herein, shall have the meanings assigned to them in the Contract.

**2. Definitions**

- A. Bid.** An offer or proposal submitted by a Bidder to furnish a described Product or a solution, perform services or means of achieving a practical end, at a stated price for the stated Contract term.
- B. Bidder.** Any individual or other legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) which submits a Bid in response to a Bid Solicitation. In case of negotiated Contracts, "Bidder" shall refer to the "Contractor."
- C. Bid Documents.** Writings by the County setting forth the scope, terms, conditions and Technical Specifications for a procurement of Product. Such writings may typically include, but are not limited to: Instruction to Bidders, Suffolk County Legislative Requirements, Technical Specifications, Bid Form, Listing of Names and Addresses, addenda or amendments thereto, Bid, and terms and conditions which are incorporated by reference.
- D. Bid Form.** The approved form on which the County requires formal bid to be prepared and submitted for the Work.

- E. Cash Discount.** Incentive offered by a seller to a buyer for settling the invoice immediately on delivery or in a period substantially shorter than the conventional period in that industry or market.
- F. Class Bid.** Bids that encompass more than one item that share common attributes or traits.
- G. Commissioner.** Commissioner of the Suffolk County Department of Public Works, or his authorized representative.
- H. Contract.** The writing(s) which contain the agreement of the Commissioner and the Bidder/Contractor setting forth the legal obligation between the parties as determined by applicable rules of law.
- I. Contractor.** Any successful Bidder(s) to whom a Contract is awarded by the Commissioner, its officers, officials, employees, agents, servants, sub-contractors and any successor or assign of any one or more of the foregoing performing the Services..
- J. County.** The County of Suffolk, its departments, agents, servants, officials, and employees.
- K. Department.** The Suffolk County Department of Public Works.
- L. Material Breach.** Failure, without legal excuse, to perform a duty or obligation under the contract that is so substantial that it defeats the purpose of the Contract.
- M. Product.** A deliverable under any bid or Contract which may include commodities and services.
- N. Purchase Order.** The form or format that is used when making a purchase.
- O. Responsible Bidder.** A bidder that is determined to have financial and organizational capacity, legal authority, satisfactory previous performance, skill judgment and integrity, and that is found to be competent, reliable and experienced, as determined by the Commissioner.
- P. Responsive Bidder.** A Bidder meeting the Technical Specifications or requirements prescribed in the Bid Documents or solicitation, as determined by the Commissioner.

- Q. Site.** The location where Product will be executed or delivered.
- R. Technical Specifications.** A written description by the County setting forth the specific terms of the intended procurement, which may include: physical or functional characteristics, the nature of a Product, and description of the work to be performed, Products to be provided.
- S. Trade Discount.** Amount or rate by which the catalog, list, or retail price of an item is reduced when sold to a reseller. It is the reseller's profit margin and usually varies directly with quantity of the item purchased.
- T User Department.** Any Department, agency, or other entity authorized to procure Products under County Contracts.

### 3. Bid Submission

- A.** All bids shall be submitted on Bid Forms attached, sealed in an envelope and identified with the Bid opening date and time, and the Letting Number. All Bids shall be delivered no later than the Bid opening date, to Suffolk County Department of Public Works, Yaphank Avenue, Yaphank, NY 11980. Bidders are solely responsible for timely delivery of their Bids.
- B.** The Contract shall be for a period of one (1) year and may be extended up to four (4) times, for individual terms not to exceed one year, by mutual agreement between the Contractor and Suffolk County. The original Contract period, plus extensions, shall not exceed five (5) years total.
- C.** Bids must be completed and legible. All Bids must be signed in ink. All information required by the Technical Specifications must be supplied by the Bidder on the Bid form. No alteration, erasures or additions are to be made to the Technical Specifications. Changes may be ignored by the County or may be grounds for rejection of the Bid. Changes, corrections and/or use of white-out in the Bid must be initialed by an authorized representative of the Bidder.
- D.** If the Bid is made by a partnership or corporation, the name and address of the partnership or corporation shall be indicated, together with the names and addresses of the partners or officers. If the Bid is made by a partnership, it shall

be acknowledged by one of the partners; if made by a corporation, by the President.

- E.** Bids which are incomplete, conditional or obscure may be rejected as non-responsive.
- F.** Bidders are cautioned to verify their bids before submission, as amendments to Bids or requests for withdrawal of Bids received by the County after the time specified for the Bid opening may not be considered.
- G.** The Bidder, in submitting his bid, specifically agrees that the Notice to Bidders published in conjunction with this Letting and the Bid Documents shall all form part of the Contract between the Bidder and the County of Suffolk.
- H.** Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission by the Bidder. Marking the Bid as "confidential" or "proprietary" on its face or in the document shall not be considered by the Commissioner to be sufficient without specific justification as to why disclosure of particular information in the Bid would cause substantial injury to the competitive position of the Bidder. Bidders/Contractors intending to seek an exemption from disclosure of these materials under the Freedom of Information Law must request the exemption in writing, setting forth the reasons for the claimed exemption. Acceptance of the claimed materials does not constitute a determination on the exemption request, which determination shall be made in accordance with statutory procedures. Properly identified information that has been designated confidential, trade secret, or proprietary by the Bidder will not be disclosed except as may be required by the Freedom of Information Law or other applicable State and Federal laws.
- I.** In all Bid Documents, the words "or equal" are understood to appear after each Product. Any deviations from specifications or the indicated brand shall be clearly stated on the Bid form and fully explained by accompanying circulars, specification sheets or samples submitted with the Bid. The Commissioner's decision as to acceptance of a commodity as an equal shall be final. If Bidder does not identify an exception to a specified brand, the Bid will be construed as providing the

identical commodity described in the Technical Specifications and Bidder will be required to deliver the brand specified.

- J.** Bids shall be extended and totaled where required. In the event of a discrepancy between the unit price and the extension, the unit price will govern. Bidders may bid on any or all items.
- K.** Suffolk County reserves the right to award this bid to single or multiple vendors, in whole or in part, by item, by class, by category or to establish primary/secondary contracts or to make no award, whichever the County deems to be in its best interest.
- L.** Delivery time frame must be specified. Use of the term "ASAP" may void your Bid.
- M.** All prices must be bid on the basis of F.O.B. delivery point, unloaded inside and assembled unless otherwise indicated in the Bid Documents.
- N.** Prices must be net, including transportation, delivery, and other charges, fully prepaid by Contractor to the destination(s) indicated in the Bid Documents.
- O.** The quantity shown for the Product is an estimate of the needs of the User Department. The Bidder, in submitting a Bid, agrees that the County may purchase any quantity over or under the quantity shown at the unit price bid, or may not purchase at all.
- P.** Cash Discounts will not be a factor in determining awards unless otherwise indicated by the County. Trade Discounts may be a factor in determining the award.
- Q.** During the Contract term, if substantially the same or a smaller quantity of a Product is sold by the Contractor outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a Federal, State or local governmental entity, the price under this Contract shall be immediately reduced to the lower price.
- R.** The successful Bidder agrees to comply with all laws promulgated and publically accessible codes, rules, regulations and standards which govern and have jurisdiction at the time the Product is provided. If the Contractor performs any work contrary to applicable laws, codes, rules, regulations, and/or standards, he

shall bear all costs and liability arising therefrom.

- S.** If any portion of the work being Bid is subject to the prevailing wage rate provisions of the Labor Law, a copy of the applicable prevailing wage rates to be paid or provided are deemed part of the Bid Documents. If a copy of the applicable rates are not annexed to the Bid Documents, the information will be furnished to the Bidder immediately upon receipt of a request for same.
- T.** Pursuant to Section 220 of NYS Labor Law, no laborer, workman or mechanic in the employ of the Contractor, subcontractor or other person doing or contracting to do the whole or any part of the Work contemplated by this Contract shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week except in the emergencies set forth in the Labor Law.
- U.** The Bidder agrees that by submitting a successful bid, any political subdivision to any other governmental entities will be permitted to participate in the awarded Contract per the same terms and conditions set forth in the Contract; where authorized under law provided, however, that any political subdivision choosing to utilize the Contract will be wholly responsible for any debts incurred by them as participants of the Contract.
- V.** Bidders shall supply three (3) parts books, three (3) service repair manuals, and three (3) operator's manuals with each unit, where applicable.
- W.** Bids on equipment must be on standard new equipment, latest model and in current production. Where any part of nominal appurtenance of equipment is not described, it shall be understood that all the equipment and appurtenances which are usually provided in the manufacturer's stock model shall be furnished.
- X.** The successful Bidder will provide the location of the authorized repair shop at which location the equipment will be serviced under a Guarantee and Warranty Maintenance Agreement.
- Y.** The County is not liable for any costs incurred by a Bidder or Contractor in the preparation and production of a bid, or for any work performed prior to Contract execution.



#### 4. Samples & Shop Drawing

- A. The Commissioner reserves the right to request from Bidder/Contractor representative sample(s) or shop drawing(s) of Product(s) offered, at any time. Unless otherwise instructed, the sample(s) shall be furnished within ten (10) days of the request.
- B. Requested samples and/or drawings shall be delivered free of charge. Samples shall be removed by the Bidder, at Bidder's expense, upon request of the Commissioner. The County will not be responsible for samples which are destroyed, damaged, consumed or rendered useless by testing or examination. If samples are not removed within thirty (30) days after written notice to Bidder/Contractor, they shall be considered as abandoned and the County shall have the right to dispose of them as its own property.
- C. If in the judgment of the Commissioner, a sample is not submitted as requested or if the sample is not in accordance with the requirements stated in the Technical Specifications and the Bid Documents the Commissioner may reject the bid; or, if an award has been made, cancel the Contract at the expense of the Contractor.
- D. When an accepted sample exceeds the minimum Technical Specifications, all Products delivered will be of same quality and identity as the sample.
- E. Samples may be held by the Commissioner during the entire term of the Contract for comparison with deliveries.

#### 5. Withdrawal Of Bids

- A. Any bid may be withdrawn by the Bidder prior to the scheduled time for the receipt of bids or authorized postponement thereof provided the Bidder's written request for withdrawal is delivered to the Commissioner before the Bids are opened. A Bid which has been withdrawn will be returned to the Bidder unopened at the time of the opening of the other bids.

#### 6. Opening Of Bids

- A. The time scheduled for the receipt of Bids shall be in accordance with the Notice to Bidders. All Bids formally received will be opened and read aloud. The results will be made public. Until the actual award and

execution of a Contract, the County reserves all its rights with respect to the rejection of bids.

- B. Late Bids will not be considered.

#### 7. Bid Evaluation

- A. Prior to award the Commissioner may conduct investigations as to whether or not the Products, qualifications, or facilities offered by the Bidder meet the requirements set forth in the bid document and Technical Specifications, and are ample and sufficient to insure the proper performance of the Contract in the event of award. Upon the request of the Commissioner, the Bidder shall provide evidence of experience, ability and financial standing, as well as a statement as to plant, machinery, and capacity of the manufacturer for the production and distribution of the Product which is the subject of the bid. Notwithstanding the forgoing, the Commissioner shall not be obligated to conduct any investigations before an award. It is further understood that no such investigations shall relieve a Contractor from fulfilling all requirements and conditions of the Contract.

- B. **Local Preference:** Section A4-14 of the Suffolk County Administrative Code establishes a local preference program for Suffolk County Contractors. This preference program allows the County the option of awarding Contracts to Bidders other than the lowest Responsible Bidder. Copies of Section A4-14 of the Suffolk County Administrative Code may be obtained at the Yaphank offices of the Department of Public Works or viewed on the Suffolk County web site at <http://legis.suffolkcountyny.gov/>. Click on "**Search the Laws of Suffolk County.**"

- C. The Commissioner reserves the right to accept or reject any and all Bids, or separable portions of offers, to make awards by items, groups, classes of items, and to waive technicalities, irregularities, and omissions if the Commissioner determines the best interests of the County will be served. The Commissioner, in his sole discretion, may accept or reject illegible, incomplete or vague Bids and his decision shall be final.

- D. **Disqualification for Past Performance/ Findings of Non-Responsibility**

Bidder may be disqualified from receiving awards if Bidder has previously failed to perform satisfactorily in connection with public Bidding or Contracts or is deemed a Non Responsive Bidder under Sections 143-5 through 143-9 of the Suffolk County Code.

- E. Any language in any proposal or document submitted by a Bidder as part of their bid that is accepted by the County cannot be in conflict with any material term and/or condition relevant to this bid with the exception of any warranties or the specifications of the commodity of service required by this Bid. If there is any conflict between the Bid and the terms and conditions of Bid Documents, the terms and conditions of the Bid documents shall govern.

**8. Substantially Equivalent Bids**

- A. When two or more low Bids are substantially equivalent Bids as to pricing or other factors, the decision of the Commissioner to award a Contract to one or more of such Bidders shall be final.

**9. Contract Award**

- A. Subject to the County's Local Preference Program, Contracts shall be awarded to the lowest Responsible Bidder.
- B. Subject to and upon compliance with any prerequisites set forth in the Technical Specifications, a Contract shall be deemed executed and created with the successful Bidder(s), upon the Commissioner's mailing or electronic communication to the address on the Bid/Contract of: (i) a final Contract Award Notice; (ii) a fully executed Contract; or (iii) a Purchase Order authorized by the Commissioner.
- C. Unless otherwise authorized in writing by the Commissioner, no Product is to be delivered or furnished by Contractor until transmittal of an official Purchase Order.
- D. The Contract is subject to the amount of funds appropriated, and no liability shall be incurred by the County beyond the amount of funds appropriated for the Product(s).

**10. Termination**

- A. **For Cause:** The Commissioner may immediately terminate: (i) for a material breach that remains uncured for more than thirty (30) days or other specified period after written notice to the Contractor; (ii)

where, the Commissioner determines that Contractor becomes unable or incapable of performing, or meeting any requirements or qualification set forth in the Contract, which determination shall be conclusive; (iii) for nonperformance; or (iv) Contractor is found guilty after a trial or a plea of guilty to an offense covered under the provisions of Sections 143-5 of the Suffolk County Code. Such termination shall be upon written notice to the Contractor.

- (i) The County shall be released from any and all liability under the Contract, effective as of the date of the termination notice.
- (ii) Nothing contained in this paragraph shall be construed as a limitation on the County's legal or equitable remedies, or other rights available to it.

**B. For Convenience:**

- i) The Commissioner shall have the right to terminate the Contract for convenience, at any time, without penalty or other early termination charges due; provided, however, that no such termination shall be effective unless the Contractor is given at least thirty (30) days written notice. If the Contract is terminated pursuant to this subdivision, the County shall remain liable for all accrued but unpaid charges incurred through the date of termination. Contractor shall use due diligence and provide any outstanding deliveries.
- ii) The placement of a Purchasing Order may be terminated by the Commissioner for convenience upon five (5) days written notice.

**11. Duties Upon Breach**

- A. In any case where a question of non-performance by Contractor arises, payment may be withheld in whole or in part at the discretion of the Commissioner.
- B. Upon failure of the Contractor to deliver within the time specified, or failure to make immediate replacement of rejected Product(s) when so requested, the Commissioner may purchase from other sources to replace the Product(s) rejected or not delivered. On all such purchases the Contractor agrees to reimburse the County promptly for costs in excess of the new purchase cost plus the re-letting cost and any other additional costs or

expenses incurred in acquiring the acceptable Products, Should the new cost be less than the Contract price, the Contractor shall have no claim to the difference. Should the new purchase price exceed the Contract price by twenty percent (20%) or more, the County agrees to waive its claim to the re-letting cost; if the new purchase price is less than twenty percent (20%) of the Contract price, the County shall charge the related cost in an amount not exceeding twenty percent (20%) of the order price of the items rejected or not delivered.

- C. Sums due as a result of these remedies may be deducted or offset by the Commissioner from payments due, or to become due, the Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion the Contractor shall pay to the County the amount of such claim or portion of the claim still outstanding, on demand. Submission of a voucher and payment thereof by the County shall not preclude the County from demanding a price adjustment in any case where the Product delivered is later found to deviate from the specifications and proposal. Should the amount withheld be finally paid a Cash Discount originally offered may be taken by the County as if no delay in payment had occurred.
- D. Any delivery made which does not meet the requirements of the Bid Document may be rejected or accepted on an adjusted price basis as determined by the County.
- E. It is understood and agreed that all rights and remedies afforded above are in addition to all remedies or actions otherwise authorized or permitted by law.

## 12. Limitation of Action

No action for any cause whatsoever arising out of this Contract shall be maintained against the County of Suffolk by the Contractor, or anyone claiming under the Contractor, unless such action shall be commenced within six (6) months: (a) after expiration of this Contract; (b) after the date of written notice to the Contractor from the County of complete rejection or withheld acceptance of a delivery; or (3) after the date of written notice to the Contractor from the County of a deduction from the agreed price on a Purchase Order, whichever of the above events shall be the latest in time.

## 13. Indemnification And Defense

- A. The Contractor shall protect, indemnify and hold harmless the County, its officers, officials, employees, Contractors, agents , servants and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorneys' fees, caused by the acts or omissions or the negligence of the Contractor incurred by the County, its officers, officials, employees, Contractors, agents, servants and other persons in any action or proceeding arising out of or in connection with the Contract
- B. The Contractor hereby represents and warrants that it will not infringe upon any copyright, trademark or patent in performing the requirements under this Contract. The Contractor agrees that it shall protect, indemnify, and hold harmless the County, its officers, officials, employees, Contractors, agents and servants from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, suits or actions, costs, and expenses arising out of any claim asserted for infringement of copyright, trademark or patent including reimbursement of the cost of reasonable attorneys' fees incurred by the County, its officers, officials, employees, contractors, agents, servants in any action or proceeding arising out of or in connection with any claim asserted for infringement of copyright, trademark or patent due to the Contractor's actions in carrying out its duties under this Contract.
- C. The Contractor shall defend the County its officers, officials, employees, contractors, agents and other persons in any proceeding or action, including appeals, arising out, in connection with, the Contract, and any copyright infringement proceeding or action. At the County's option, the County may defend any such proceeding or action and require the Contractor to pay reasonable attorney's fees for the defense of any such suit.

## 14. Insurance

- A. The Contractor and his subcontractors shall not commence work under this Contract until all the required insurance has been obtained and such insurance has been approved by the County. Approval of the insurance by County shall not relieve or decrease the liability of the Contractor. The Contractor shall assume all responsibility for the insurance requirements of all subcontractors. All insurance requirements apply equally to subcontractors. All insurance shall be obtained from companies licensed to do business in the State of New York. All policies providing coverage shall be issued with an A.M. Best rating of A- or better.
- B. The Contractor shall furnish to the County Declaration Pages for each such policy of insurance, and, upon request, a true and certified original copy of each such policy, evidencing compliance with the insurance requirements. The County of Suffolk shall be named as an additional insured on all applicable policies and Contractor shall furnish a Declaration Page and endorsement page evidencing the County's status as an additional insured on said policy.
- C. All such Declaration Pages and other evidence of insurance shall provide for the County of Suffolk to be notified in writing thirty (30) days prior to any cancellation, nonrenewal, or material change in said policies. Such Declaration Pages, policies, and other evidence of insurance shall be mailed to the Department at its address set forth in the paragraph entitled "Notices and Contact Persons", or at such other address of which the County shall have given the Contractor notice in writing. Any correspondence shall specifically refer to the Project covered under the Contract.
- D. If the Contractor fails to provide the declaration pages or certificates of insurance or to maintain any insurance required by this Agreement, the Owner may, but shall not be required to, withhold payment until such time that certificates/policies are submitted stating that all applicable insurances are in effect, or may obtain such policies and deduct the cost thereof from payments due the Contractor under this Agreement or any other agreement between the County and the Contractor.
- E. Upon failure of the Contractor to furnish, deliver, and maintain such insurances as herein provided, this Agreement, at the

election of the County, may be forthwith suspended, discontinued, or terminated. Failure of the contractor to take out and/or maintain and the taking out and/or maintenance of any required insurance shall not relieve the Contractor from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with the obligations of the contractor concerning indemnification. In that event of suspension of work, no extension of time to complete the Work shall be granted.

- F. The Contractor agrees that it shall protect, indemnify and hold harmless the County and its officers, officials, employees, contractors, agents and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorneys' fees, arising out of the acts or omissions or the negligence of the Contractor in connection with the services described or referred to in this Agreement. The Contractor shall defend the County and its officers, officials, employees, contractors, agents and other persons in any suit, including appeals, or at the County's option, pay reasonable attorney's fees for defense of any such suit arising out of the acts or omissions or negligence of the Contractor, its officers, officials, employees, subcontractors or agents, if any, in connection with the services described or referred to in this Agreement.
- G. The Contractor shall procure, pay the entire premium for, and maintain throughout the term of this Agreement, insurance in amounts and types specified by the County. The Contractor agrees to require that all of its subcontractors, in connection with work performed for the Contractor related to this Agreement, procure, pay the entire premium for and maintain throughout the term of this Agreement insurance in amounts and types equal to that specified by the County for the Contractor. Unless otherwise specified by the County and agreed to by the Contractor, in writing, such insurance will be as follows:

1. **Workers Compensation Insurance**

**Worker's Compensation and Employer's Liability** insurance in compliance with all applicable New York State laws and regulations and **Disability Benefits** insurance, if required by law. Contractor shall furnish to the County,

prior to its execution of this Agreement, the documentation required by the State of New York Workers' Compensation Board of coverage or exemption from coverage pursuant to §§ 57 and 220 of the Workers' Compensation Law. In accordance with General Municipal Law § 108, this Agreement shall be void and of no effect unless the Contractor shall provide and maintain coverage during the term of this Agreement for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

## **2. General Liability Insurance**

- a. Commercial General Liability Insurance, including contractual liability coverage in and amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury and two million dollars (\$2,000,000) per occurrence for property damage.

Completed Operations Coverage which shall continue for a minimum of two (2) years after completion of the Contract.

- b. In addition, for contracts that exceed \$5,000,000 the Contractor will furnish one million dollars (\$1,000,000) Owner's and Contractor's Protective Liability Insurance in the name of and covering the liability of the County of Suffolk with respect to all work performed under this Contract, including omissions or errors of the County, combined single limit of one million dollars (\$1,000,000) per occurrence for bodily injury and property damage.
- c. At the Contractor's option, the Contractor may furnish a minimum one million dollar (\$1,000,000) Umbrella Policy or Excess Liability Policy to meet the two million dollar (\$2,000,000) General Liability Insurance requirement of Item No. 2a.

## **3. Automobile Liability Insurance**

- a. if any vehicles are used for construction by the Contractor in the performance of this Agreement including owned, non-owned, and hired cars, with minimum limits of not less than One Million Dollars (\$1,000,000) per person, per accident bodily injury and not less than Five Hundred Thousand Dollars (\$500,000) for property damage per occurrence.
- b. if any vehicles are used for services other than construction by the Contractor in the performance of this Agreement including

owned, non-owned, and hired cars, with minimum limits of not less than Five Hundred Thousand Dollars (\$500,000) per person, per accident bodily injury and not less than One Hundred Thousand Dollars (\$100,000) for property damage per occurrence.

## **4. Pollution Liability**

- a. If the work involves abatement, removal, repair, replacement, enclosure, encapsulation, and/or disposal of any hazardous material or substance, as defined by applicable State and federal laws and regulations, the Contractor shall maintain in full force and effect throughout the term of the contract, and for two years after completion hereof, pollution legal liability insurance with limits of not less than \$2,000,000, providing coverage for bodily injury and property damage, including loss of use of damaged property or of property that has not been physically injured. Such policy shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, including any loss, cost or expense incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against the County arising from Contractor's work. Suffolk County shall be named as additional insured and this shall be primary.
- b. If automobiles are to be used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered autos (endorsement CA 99 48) as well as proof of MCS 90.

## **5. All Builders Risk and Flood Insurance (when required)**

- a. See "Supplementary Conditions" for which contracts require an All Builders Risk Policy covering both job and materials.
- b. The coverage limits are as follow:
  - (1) 100% of contract value for Projects with completion dates 1 year or less.
  - (2) 105% of contract value for Projects with completion dates of more than 1 year but less than 2 years.
  - (3) 110% of contract value for Projects with completion dates of more than 2 years but less than 3 years.

- (4) 115% of contract value for Projects with completion dates of 3 years or more.

**Note:** For projects accepted in clear and distant phases, the coverage amounts may be modified accordingly.

- c. The County of Suffolk must be named loss payee.

**6. Installation Floater (when required)**

- a. See "Supplementary Conditions" for which contracts require an Installation Floater Policy covering both job and materials.
- b. The coverage limits are as follow:
  - (1) 100% of contract value for Projects with completion dates 1 year or less.
  - (2) 105% of contract value for Projects with completion dates of more than 1 year but less than 2 years.
  - (3) 110% of contract value for Projects with completion dates of more than 2 years but less than 3 years.
  - (4) 115% of contract value for Projects with completion dates of 3 years or more

**Note:** For projects accepted in clear and distant phases, the coverage amounts may be modified accordingly.

- c. The County of Suffolk must be named as Loss Payee.

**7. Insurance Coverage for Work on Railroad Property**

- a. Work within railroad property lines or areas subject to Railroad Utility jurisdiction shall be covered by special insurance provisions established by the railroad companies involved in the Project, which provisions shall be ascertained from the Railroad Utility.

INSURANCE TO BE FURNISHED BY THE CONTRACTOR FOR WORK WITHIN THE RAILROAD RIGHT-OF-WAY

- b. In addition to the Indemnification and Hold Harmless Agreement and insurance requirements previously provided for, the contractor shall procure, pay the entire premium for and maintain in force throughout the life of this contract policies of insurance for:

**8. Railroad Protective Liability Insurance (ISO-SIMA or equivalent form)**

- a. Covering the work to be performed at the designated job site and affording protection for damages arising out of bodily injuries or death, injury to or destruction of property, including damage to the insured's own property and conforming to the following:
  - b. The Long Island Railroad Company and Metropolitan Transportation Authority are the named insured's.
  - c. Liability limit shall be \$2,000,000 each occurrence. \*
  - d. Physical Damage definition 6 of the policy form must be amended to mean direct and accidental loss of or damage to all properties of the insured including property in the insured's care, custody or control.
  - e. Full name and address of the contractor purchasing the insurance must be stated.
  - f. The insured shall be indicated as the governmental authority for whom the work shall be performed.
  - g. The use of any equivalent form to ISO-RIMA must provide equal or superior coverage as determined solely by the LIRR Insurance Department.
  - h. \*If policy is subject to an aggregate limit, replacement insurance will be required if it is likely such aggregate will be exceeded.

**9. Comprehensive General Liability Insurance**

- a. Covering the work to be performed and also including coverage for contractual liability, independent contractors, completed operations liability, explosion, collapse and underground hazard. Contractual liability exclusion applicable to work to be performed within 50 feet of the Railroad tracks must be voided. Minimum combined single limit shall be \$2,000,000 for bodily injury and property damage.

**10. Workmen's Compensation and Employer's Liability Insurance**

- a. Covering all employees of each contractor and/or subcontractor in accordance with New York State Worker's Compensation and Employer's Liability Law.
- b. The contractor shall furnish to the Railroad the original policy for Railroad Protective Liability Insurance (American Association

State Highway Organization Form) and certificate(s) of insurance for Comprehensive General Liability and Worker's Compensation and Employer's Liability insurance containing a statement providing that thirty days advance notification shall be given to the Railroad of cancellation, non-renewal or material change of the policy. Copies of all the above shall also be furnished to the County. Certificate(s) of insurance shall name the Railroad and County as additional insured's.

**11. Insurance Coverage for Work Activity on Water (in addition to standard General/Excess Liability, Auto and Worker's Compensation)**

a. If any work to be performed under this agreement involves activity on/above waters requiring compliance under the provisions of the Jones Act (JA) and/or the United States Longshoreman's and Harbor Worker's Act (USL&H) and/or vessels requiring Marine Protection and Indemnity Insurance (Marine P&I) (in an amount not less than one million dollars (\$1,000,000) for any one accident or occurrence), or Jones Act (JA) compliance, the contractor shall furnish evidence of insurance complying with said requirement.

- (1) The County of Suffolk must be named as additional insured.
- (2) In the event that any work is subcontracted, the contractor shall require (and show proof thereof) that his/her subcontractor provide this insurance.

b. Specific Requirements

*(1) Painting and Rehabilitation of Bridges over Water projects:*

- (1.1) If a contractor is to perform work on bridge using a scaffold hanging from bridge over the water, USL&H insurance is required.
- (1.2) If a contractor is to perform work on bridge from a vessel (i.e.: boat, barge, etc.) in the water, JA and Marine P&I insurance is required
- (1.3) If a contractor is to perform work on bridge from the water, if shallow enough, by entering the water using waders, USL&H insurance is required.

*(2) Bulkheading and Shoreline Protection Projects:*

- (2.1) If a contractor is to perform work from a vessel in the water, JA & Marine P&I insurance is required.
- (2.2) If a contractor is to perform work with all equipment on land, USL&H insurance is required.

*(3) Dredging Projects:*

- (3.1) If a contractor is to perform work from a vessel in the water using either hydraulic or mechanical equipment, JA and Marine P&I insurance is required.
- (3.2) If a contractor is to perform work from land using mechanical equipment (i.e.: crane), USL&H insurance is required.

*(4) Dredging Equipment Projects:*

- (4.1) If a contractor is to perform work using equipment on shoreline and vessel in the water, USL&H and JA insurance is required.

**H.** The Contractor assumes responsibility for all injury to or destruction of or loss by theft or pilferage of the Contractor's materials, tools, machinery, equipment, appliances, shoring, scaffolding, false and form work and personal property of his employees, from whatever cause.

**I.** If, at any time, the Contractor's Surety or Sureties, or the carriers of the insurance herein specified to be written, become insolvent or, in a reasonable judgment of the County, become unsafe or unsound, then upon five (5) days written notice from the County to the Contractor, the Contractor shall substitute such Surety or insurance carrier with such other Surety or carrier, as shall be satisfactory to the County. Any additional premium caused by such substitution shall be paid for by the Contractor.

**15. Delivery**

- A. No Products are to be shipped or delivered until receipt of an official Purchase Order from the Commissioner.
- B. Delivery must be made between the hours of 9:00 a.m. and 3:30 p.m. as ordered and in accordance with the terms of the Contract unless otherwise indicated in the Bid Documents. Deliveries should be coordinated with the User Department.
- C. Delivery time shall be computed in calendar days from the order mailing date on the Purchase Order.
- D. Burden of proof of delay in receipt of Purchase Order shall rest with the Contractor. Any extension of time of delivery must be requested in writing by the Contractor and approved by the User Department.
- D. Products shall be securely and properly packed for shipment, storage and stocking in shipping containers and according to accepted commercial practice, without extra charge for packing cases, bailing, or sacks. The container shall remain the property of the County unless otherwise specifically agreed to in the Contract.
- E. The Contractor shall utilize biodegradable and/or backyard-compostable packing materials to the greatest extent possible when shipping goods ordered by any County department. This requirement shall not apply to the packaging and shipping of goods which are regulated by state or federal authorities. In the event a vendor is unable to provide biodegradable and/or backyard-compostable packing materials for a shipment of goods, it must notify the County in writing of the items being shipped in noncompliant packing and the reason why such packaging is necessary. The original packaging of goods shall be exempt from this requirement.
- F. The Contractor shall be responsible for delivery of Products in good condition to point of destination. Products delivered to the User Department shall be the property and sole responsibility of the Contractor until such time the County accepts same.
- G. Deliveries are subject to re-weighing at destination by the County and where applicable payment will be made on the basis of the net weight of Products delivered. Normal shrinkage may be allowed in accordance with trade practice.
- H. Deliveries of incorrect or faulty Products will be rejected and returned to sender at Contractor's expense.
- I. The County may withhold acceptance of, or reject any goods which are found upon examination, not to meet the specified requirements. Upon written notification of rejection, goods shall be removed by the Contractor within ten (10) days of the notification. Rejected goods left longer than thirty (30) days will be regarded as abandoned and the County shall have the right to dispose of them as its own property. On foodstuffs and drugs, no written notice of rejection need be given: upon verbal notice to do so, the Vendor shall immediately remove and replace rejected merchandise.
- J. Inspections shall be made at the point of delivery unless otherwise specified. Any food, drug or other perishable Product which is found to be unwholesome or otherwise unfit for human consumption or use shall not be removed by the Contractor until it is examined by the Department of Health. If condemned, such Products shall be disposed of as provided by law.
- K. All Products which are customarily labeled or identified must have securely affixed thereto the original unutilized label or marking of the manufacturer.
- L. Notwithstanding the form of shipment, title or other property interest, risk of loss shall not pass from the Contractor to the User Department until the Products have been received, inspected and accepted by the receiving entity. Mere acknowledgment by User Department personnel of the delivery or receipt of goods shall not be deemed or construed as acceptance of the Products received.
- M. The decision of the Commissioner as to compliance with delivery terms shall be final.

**16. Payment**

- A. Presentation of Suffolk County Payment Voucher** - In order for payment to be made by the County to the Contractor, the Contractor shall prepare and present a Suffolk County Payment Voucher or certified invoice, which shall be documented by sufficient, competent and evidential matter.
- B. Voucher Documentation** - The Suffolk



County Payment Voucher or certified invoice shall set forth complete and accurate billing invoice information, in accordance with the Contract. All Suffolk County Payment Vouchers or certified invoices must be signed in ink by duly authorized persons.

- C. Payment by County** - Payment by the County shall be made within thirty (30) days after approval of the Suffolk County Payment Voucher by the Comptroller of the County of Suffolk.
- D. Final Voucher** - The acceptance by the Contractor of payment of all billings made on the final approved Suffolk County Payment Voucher shall operate as and shall be a release of the County from all claims by the Contractor.

#### 17. Taxes

Unless otherwise specified in the Bid Documents, purchases made by the County of Suffolk are exempt from State or local sales taxes and, with certain exceptions, Federal excise taxes. To satisfy the requirements of the New York State sales tax exemption, either the Purchase Order issued by the Commissioner or the voucher forwarded to authorize payment for the Products, will be sufficient evidence that the sale by a Contractor was made to the County of Suffolk, an exempt organization under section 1116 (a) (1) of the Tax Law. No person, firm or corporation is, however, exempt from paying Unemployment Insurance or the Federal Social Security taxes.

#### 18. Audit

- A.** All payments made under the Contract are subject to audit by the Comptroller pursuant to Article V of the Suffolk County Charter. The Contractor further agrees that the Comptroller and Department shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transactions or other records relating to this Contract. The Contractor failure to cooperate in any Audit shall constitute a material default.
- B.** If such an audit discloses overpayments by the County to the Contractor, within thirty (30) days after the issuance of an official audit report by the Comptroller or his duly designated representatives, the Contractor shall repay the amount of such overpayment by check to the order of the

Suffolk County Treasurer or shall submit a proposed plan of repayment to the Comptroller. If there is no response or if satisfactory repayments are not made, the County may recoup overpayments from any amounts due or becoming due to the Consultant from the County under the Contract or otherwise.

- C.** The provisions of this subparagraph shall survive the expiration or termination of the Contract and shall be in addition to any rights of the County set forth in the Contract.

#### 19. Guarantees By Contractor

- A.** In the event of an installation, Contractor hereby guarantees to pay for all permits, licenses, and fees and give all notices and comply with all applicable laws, ordinances, rules and regulations.
- B.** Contractor hereby guarantees that unless specified in the Bid, the Products offered new, latest models of regular stock Products with all parts regularly used with the type of equipment offered: also, that no attachment or part has been substituted or applied contrary to manufacturer's recommendation and standard practice.
- C.** Every unit delivered must be guaranteed against faulty material and workmanship for a period of one year unless otherwise specified.
- D.** Where any Product delivered by the Contractor is marketed with a standard commercial warranty, such standard warranty shall be in addition to, and not relieve the Contractor from, Contractor's warranty obligations under the Bid Documents.
- E.** If during the regular or extended warranty period faults develop, the Contractor shall promptly repair or, upon demand, replace the defective Product, unit or component affected. All costs for labor and material and transportation incurred to repair or replace defective Product during the warranty period shall be borne solely by the Contractor.
- F.** All warranties contained in this Contract shall survive the termination of this Contract.

#### 20. Contracts Involving Installation

- A. Contractor shall clean up and remove all debris and rubbish resulting from his work from time to time as required or directed. Upon completion of the work, the premises shall be left in a neat unobstructed condition, the buildings broom cleaned, and everything in satisfactory repair and order.
- B. Installation shall also include the furnishings of any rigging necessary to move equipment into the building; also the removal and resetting of any removable windows used for moving equipment into the building.
- C. Bidders shall acquaint themselves with conditions to be found at the Site and shall assume all responsibility for placing and installing the equipment in the locations required.
- D. Contractor shall furnish adequate protection from damage for all work and shall repair damages of any kind for which he or his workmen are responsible.
- E. Equipment, supplies and materials shall be stored, at the Contractor's risk, at the Site only upon approval of the County. In general, such on Site storage should be avoided to prevent possible damage or loss of material.
- F. Work shall be performed so as to cause the least inconvenience to the County, and with proper consideration for the rights of other Contractors or workmen.
- G. All materials used in installation shall be of the highest quality and shall be free from all defects which would mar the appearance of the Product or render it structurally unsound.

**21. Assignment and Subcontracting**

- A. The Contractor shall not delegate its duties under the Contract, or assign, transfer, convey, sublet, or otherwise dispose of the Contract, or any of its right, title or interest therein, or its power to execute the Contract, or assign all or any portion of the monies that may be due or become due hereunder, (collectively referred to in this paragraph 18 as "Assignment"), to any other person, entity or thing without the prior written consent of the County, and any attempt to do any of the foregoing without such consent shall be a material default by the Contractor.

- B. Such Assignment shall be subject to all of the provisions of the Contract, assumption of all of the provisions of the Contract by the Contractor's assignee, and to any other condition the County requires. No approval of any Assignment shall be construed as enlarging any obligation of the County under the terms and provisions of the Contract. No Assignment of the Contract or assumption by any person of any duty of the Contractor under the Contract shall provide for, or otherwise be construed as, releasing the Contractor from any term or provision of the Contract.

**22. Changes To Contractor or Contract**

- A. The Contractor may, from time to time, only with the County's written consent, enter into a Permitted Transfer. For purposes of the Contract, a Permitted Transfer means:
  - (i) if the Contractor is a partnership, the withdrawal or change, whether voluntary, involuntary or by operation of law, of the partners, or transfer of partnership interests (other than the purchase of partnership interests by existing partners, by the partnership itself or the immediate family members by reason of gift, sale or devise), or the dissolution of the partnership without immediate reconstitution thereof, and
  - (ii) if the Contractor is a closely held corporation (i.e. whose stock is not publicly held and not traded through an exchange or over the counter):
    - 1. the dissolution, merger, consolidation or other reorganization of the Contractor; and
    - 2. the sale or other transfer of twenty percent (20%) or more of the shares of the Contractor (other than to existing shareholders, the corporation itself or the immediate family members of shareholders by reason of gift, sale or devise).
- B. If the Contractor is a not-for-profit corporation, a change of twenty percent (20%) or more of its shares or members shall be deemed a Permitted Transfer.
- C. The Contractor shall notify the County in writing, which notice (the "Transfer Notice") shall include:

- (i) the proposed effective date of the Permitted Transfer, which shall not be less than thirty (30) days nor more than one hundred eighty (180) days after the date of delivery of the Transfer Notice;
  - (ii) a summary of the material terms of the proposed Permitted Transfer;
  - (iii) the name and address of the proposed transferee;
  - (iv) such information reasonably required by the County, which will enable the County to determine the financial responsibility, character, and reputation of the proposed transferee, nature of the proposed assignee/transferee's business and experience;
  - (v.) all executed forms required pursuant to Exhibits D through G of the Contract, that are required to be submitted by the Contractor; and
  - vi) such other information as the County may reasonably require.
- D.** The County agrees that any request for its consent to a Permitted Transfer shall be granted, provided that the transfer does not violate any provision of the Contract, and the transferee has not been convicted of a criminal offense as described under Article II of Chapter 143 of the Suffolk County Code. The County shall grant or deny its consent to any request of a Permitted Transfer within twenty (20) days after delivery to the County of the Transfer Notice, in accordance with the provisions of Paragraph 22 of the Contract. If the County shall not give written notice to the Contractor denying its consent to such Permitted Transfer (and setting forth the basis for such denial in reasonable detail) within such twenty (20)-day period, then the County shall be deemed to have granted its consent to such Permitted Transfer.
- E.** Notwithstanding the County's consent,
- (i) the terms and conditions of the Contract shall in no way be deemed to have been waived or modified; and
  - (ii) such consent shall not be deemed consent to any further transfers.

**23. Non-Discrimination Requirements**

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

**24. Bidder/Subcontractor/Supplier Responsibility**

- A.** The County, in determining the responsibility of the apparent lowest Bidder, may require, and the apparent lowest Bidder shall provide, such information as the County deems necessary in order to ascertain the pecuniary and financial responsibility, accountability, operational responsibility, reliability, skill, capacity, ability, judgment, integrity and moral worth of the apparent lowest Bidder. In the event that the apparent lowest Bidder shall be rejected or fails to furnish the requested information and is thereby disqualified and/or otherwise determined to be not responsible, the next lowest Bidder shall become the apparent lowest Bidder.
- B.** The County may require the apparent lowest Bidder, in addition to other information, to furnish the following items:
- i) Description of its experience with projects of comparative size, complexity, and cost within the past five years, together with documentary evidence of such projects; demonstration of the Bidder's ability and capacity to perform a substantial portion of the project with its own forces;

ii) Documentation from previous projects regarding: timeliness of performance; quality of work; extension requests; labor disputes; litigation and arbitration arising from such work, including fines and penalties imposed and payment thereof; liens filed; history of claims for extra work; Contract defaults; together with explanations of same;

iii) Identification and description of any projects within the previous five years that the apparent lowest Bidder was determined by a municipality not to be a Responsible Bidder, the reasons given by such municipality therefore, together with an explanation thereof;

iv) An adequate demonstration of financial responsibility, which may include, in the County's discretion, a Certified Financial Statement prepared by a Certified Public Accountant, to assure that the apparent lowest Bidder possesses adequate resources and availability of credit and the means and ability to procure insurance and bonds required for the project;

v) Disclosure of any suspensions or revocations of any professional license of any director, officer, County, or managerial employee of the apparent lowest Bidder, to the extent that any work to be performed is within the field of such licensed profession;

vi) Disclosure of any and all OSHA violations within the previous five years, as well as all notices of OSHA violations filed against the apparent lowest Bidder in the same five year period, together with a description and explanation of remediation or other steps taken regarding such violations and notices of violation;

vii) Disclosure of any and all violations within the previous five years pertaining to unlawful intimidation or discrimination against any employee by reason of race, creed, color, disability, sex or natural origin and/or violations of an employee's civil rights or equal employment opportunities;

viii) Certification and list of equipment owned and/or leased by the apparent lowest Bidder that will be utilized on the project, together with maintenance records and such assurances regarding safety thereof as the County considers appropriate;

ix) Disclosure of any litigation (including copies of pleadings) in which the apparent lowest Bidder has been named as a defendant or third party defendant in an action involving a claim for personal injury or wrongful death arising from performance of work related to any project in which it has been engaged within the previous five years;

x) Disclosure of violations of the Prevailing Wage and Supplement Payment Requirements of the Labor Law, and any other Labor Law provisions, including, but not limited to, child labor violations, failure to pay wages, or unemployment insurance tax delinquencies within the past five years;

xi) Disclosure of violations of the Worker's Compensation Law, including, but not limited to the failure to provide proof of Workmen's Compensation or Disability coverage and/or any lapses thereof within the past five years;

xii) Disclosure of any criminal convictions, involving the apparent lowest Bidder, its officers, directors, and/or managerial employees, within the past ten years or criminal indictments or investigations within the past five years;

xiii) Disclosure of any violations within the past five years or pending charges concerning federal, state or municipal environmental and/or health laws, codes, rules and/or regulations;

xiv) Identification of all work to be subcontracted and all material to be supplied along with their approximate Contract value. All subcontractors and suppliers are subject to the approval of the County. The approval of subcontractors and suppliers shall be subject to the same evaluation of responsibility as their prime Contractor.

C. Prior to a final determination that the apparent lowest Bidder is not responsible, the County will notify the Bidder of same, in writing, stating the reasons causing concern, and setting forth a time, date and place for the apparent lowest Bidder to appear and be heard, prior to a determination being made regarding his responsibility. Such hearing shall be conducted informally, and Bidder shall have no right to a formal evidentiary hearing or to the examination or cross-examination of witnesses at said hearing.

**25. Merger; No Oral Changes**

It is expressly agreed that the Contract represents the entire agreement of the parties and that all previous understandings are herein merged in the Contract. No modification of the Contract shall be valid unless in written form and executed by the County.

**26. Arrears To County**

Contractor warrants that, except as may otherwise be authorized by agreement, it is not in arrears to the County upon debt or Contract and is not in default to the County as a surety.

**27. Set-Off Rights**

The County shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the County's option to withhold from a Fund Source an amount no greater than any moneys due and owing to the County for any reason. The County shall exercise its set-off rights subject to approval by the County Attorney. In cases of set-off pursuant to a Comptroller's audit, the County shall only exercise such right after the finalization thereof, and only after consultation with the County Attorney.

**28. Governing Law**

This Contract shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of laws. Venue shall be designated in the Supreme Court, Suffolk County, the United States District Court for the Eastern District of New York, or, if appropriate, a court of inferior jurisdiction in Suffolk County.

**29. No Waiver**

It shall not be construed that any failure or forbearance of the County to enforce any provision of the Contract in any particular instance or instances is a waiver of that provisions. Such provision shall otherwise remain in full force and effect, notwithstanding any such failure.

**30. Conflicts Of Interest**

The Contractor shall not, during the performance of the obligations under this Contract, pursue a course of conduct which would cause a reasonable person to believe that he or she is likely to be engaged in acts that create a substantial conflict between its obligations under the Contract and its private interests. The Contractor is charged with the

duty to disclose to the County the existence of any such adverse interests, whether existing or potential. This duty shall continue as long as the Term. The determination as to whether or when a conflict may potentially exist shall ultimately be made by the County Attorney after full disclosure is obtained.

**31. Cooperation On Claims**

The Contractor and the County shall render diligently to each other, without compensation, any and all cooperation that may be required to defend the other party, its employees and designated representatives against any claim, demand or action that may be brought against the other party, its employees or designated representatives arising out of or in connection with the Contract.

**32. No Intended Third Party Beneficiaries**

The Contract is entered into solely for the benefit of the County and the Contractor. No third party shall be deemed a beneficiary of the Contract and no third party shall have the right to make any claim or assert any right under the Contract.

**33. Certification as to Relationships**

The Contractor certifies under penalties of perjury that, other than through the funds provided in the Contract and other valid agreements with the County, there is no known spouse, life partner, business, commercial, economic, or financial relationship with the County or its elected officials. The Contractor also certifies that there is no relationship within the third degree of consanguinity, between the County and Contractor or any of Contractor's partners, members, directors, or shareholders owning five (5%) percent or more of the Contractor,.

**34. Publications And Publicity**

**A.** The Contractor shall not issue or publish any book, article, report, or other publication related to the Products without first obtaining written prior approval from the County. Any book, article, report or other publication or printed matter related to the Services provided pursuant to this Agreement shall contain the following statement in clear and legible print:

“This publication is fully or partially funded by the County of Suffolk”

**B.** The Contractor shall not issue press releases or any other information to the

media, in any form, concerning the Services, without obtaining prior written approval from the County.

### **35. Copyrights And Patents**

#### **A. Copyrights**

Any and all materials generated by or on behalf of Contractor while performing the Services (including, without limitation, designs, images, video, reports, analyses, manuals, films, tests, tutorials, and any other work product of any kind) and all intellectual property rights relating thereto ("Work Product") are and shall be the sole property of the County. Contractor hereby assigns to the County its entire right, title and interest, if any, to all Work Product, and agrees to do all acts and execute all documents, and to use its best efforts to ensure that its employees, consultants, subcontractors, vendors and agents do all acts and execute any documents, necessary to vest ownership in the County of any and all Work Product. The Contractor may not secure copyright protection. The County reserves to itself, and the Contractor hereby gives to the County, and to any other person designated by the County, consent to produce, reproduce, publish, translate, display or otherwise use the Work. This paragraph shall survive any completion, expiration or termination of this Agreement.

The County shall be deemed to be the author of all Work. The Contractor acknowledges that all Work shall constitute "work made for hire" under the U.S. copyright laws. To the extent that any Work does not constitute a "work made for hire," the Contractor hereby assigns to the County all right, title and interest, including the right, title and interest to reproduce, edit, adapt, modify or otherwise use the Work, that the Contractor may have or may hereafter acquire in the Work, including all intellectual property rights therein, in any manner or medium throughout the world in perpetuity without compensation. This includes, but is not limited to, the right to reproduce and distribute the Work in electronic or optical media, or in CD-ROM, on-line or similar format.

#### **B. Patents:**

If the Contractor develops, invents, designs or creates any idea, concept, code, processes or

other work or materials during the Term, or as a result of any Services performed under the Contract ("patent eligible subject matter"), it shall be the sole property of the County. Contractor hereby assigns to the County its entire right, title and interest, if any, to all patent eligible subject matter, and agrees to do all acts and execute all documents, and to use its best efforts to ensure that its employees, consultants, subcontractors, vendors and agents do all acts and execute any documents, necessary to vest ownership in the County of any and all patent eligible subject matter. The Contractor may not apply for or secure for itself patent protection. The County reserves to itself, and the Contractor hereby gives to the County, and to any other person designated by the County, consent to produce or otherwise use any item so discovered and/or the right to secure a patent for discovery or invention. This paragraph shall survive any completion, expiration or termination of this Agreement.

### **36. Lawful Hiring Of Employees Law In Connection With Contracts For Construction Or Future Construction**

In the event that the Contract is subject to the Lawful Hiring of Employees Law of the County of Suffolk, Suffolk County Code Chapter 234, as more fully set forth in the Article entitled "Suffolk County Legislative Requirements," the Contractor shall maintain the documentation mandated to be kept by this law on the construction Site at all times. Employee sign-in sheets and register/log books shall be kept on the construction Site at all times and all covered employees, as defined in the law, shall be required to sign such sign-in sheets/register/log books to indicate their presence on the construction Site during such working hours.

### **37. Notice**

Unless otherwise expressly provided, all notices shall be in writing and shall be deemed sufficiently given if sent by regular first class mail and certified mail, or personally delivered during business hours as follows: 1.) to the Contractor at the address on page 1 of the Contract and 2.) to the County at the Department, or as to either of the foregoing, to such other address as the addressee shall have indicated by prior written notice to the addressor. All notices received by the County relating to a legal claim shall be immediately sent to the Department and also to the County Attorney at 100 Veterans Memorial Highway, P.O. Box 6100, (Sixth Floor), Hauppauge, New York, 11788. The County shall report to the Contractor in writing within ten (10) days of the initiation by or against it of any legal action or

proceeding in connection with or relating to The Contract.

**38. Severability**

It is expressly agreed that if any term or provision of the Contract, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of the Contract, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and every other term and provision of the Contract shall be valid and shall be enforced to the fullest extent permitted by law.

**39. OSHA Safety Certification**

- A. Pursuant to Section 220-h of the NYS Labor Law, as to those contracts advertised after July 17, 2008, where the total cost of all work to be performed under the Contract is at least two hundred fifty thousand dollars; all laborers, workers, and mechanics employed in the performance of the Contract on the public work Site, either by the Contractor, sub-Contractor or other person doing or contracting to do the whole or part of the work contemplated by the Contract, shall be certified prior to performing any work on the project as having successfully completed a course in construction safety and health approved by the United States Department of Labor's Occupational Safety and Health Administration that is at least ten hours in duration.
- B. Each Contractor, and/or subcontractor doing or contracting to do work contemplated by the Contract is responsible for maintaining proof of the certification required under Section 220-h of the NYS Labor Law for each laborer, worker, and mechanic employed in the performance of the Contract on the public work Site. Proof of certification shall be produced and made available for inspection at the work Site within 24 hours of any request for same by the County.

**End of Text for Exhibit A**

**Exhibit B**  
**Article IV**  
**Suffolk County Legislative Requirements**

**1. Contractor's/Vendor's Public Disclosure Statement**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of section A5-7 of Article V of the Suffolk County Code.

Unless certified by an officer of the Contractor as being exempt from the requirements of section A5-7 of Article V of the Suffolk County Code, the Contractor represents and warrants that it has filed with the Comptroller the verified public disclosure statement required by Suffolk County Administrative Code Article V, section A5-7 and shall file an update of such statement with the Comptroller on or before the 31st day of January in each year of the Contract's duration. The Contractor acknowledges that such filing is a material, contractual and statutory duty and that the failure to file such statement shall constitute a material breach of the Contract, for which the County shall be entitled, upon a determination that such breach has occurred, to damages, in addition to all other legal remedies, of fifteen percent (15%) of the amount of the Contract.

**Required Form:**

Suffolk County Form SCEX 22; entitled "Contractor's/Vendor's Public Disclosure Statement"

**2. Living Wage Law**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Chapter 575, of the Suffolk County Code.

This Contract is subject to the Living Wage Law of the County of Suffolk. The law requires that, unless specific exemptions apply, all employers (as defined) under service contracts and recipients of County financial assistance, (as defined) shall provide payment of a minimum wage to employees as set forth in the Living Wage Law. Such rate shall be adjusted annually pursuant to the terms of the Suffolk County Living Wage Law of the County of Suffolk. Under the provisions of the Living Wage Law, the County shall have the authority, under appropriate circumstances, to terminate the Contract and to seek other remedies as set forth therein, for violations of this Law.

**Required Forms:**

Suffolk County Living Wage Form LW-1; entitled "Suffolk County Department of Labor – Living Wage Unit Notice of Application for County Compensation (Contract)."

Suffolk County Living Wage Form LW-38; entitled "Suffolk County Department of Labor – Living Wage Unit Living Wage Certification/Declaration – Subject To Audit."

**3. Use of County Resources to Interfere with Collective Bargaining Activities**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article I of Chapter 803 of the Suffolk County Code.

County Contractors (as defined by section 803-2) shall comply with all requirements of Chapter 803 of the Suffolk County Code, including the following prohibitions:

- a. The Contractor shall not use County funds to assist, promote, or deter union organizing.
- b. No County funds shall be used to reimburse the Contractor for any costs incurred to assist, promote, or deter union organizing.
- c. No employer shall use County property to hold a meeting with employees or supervisors if the purpose of such meeting is to assist, promote, or deter union organizing.

If the Services are performed on County property, the Contractor must adopt a reasonable access agreement, a neutrality agreement, fair communication agreement, non-intimidation agreement, and a majority authorization card agreement.

If the Services are for the provision of human services and are not to be performed on County property, the Contractor must adopt, at the least, a neutrality agreement.

Under the provisions of Chapter 803, the County shall have the authority, under appropriate circumstances, to terminate the Contract and to seek other remedies as set forth therein, for violations of this Law.



**Required Form:**

Suffolk County Labor Law Form DOL-LO1; entitled "Suffolk County Department of Labor – Labor Mediation Unit Union Organizing Certification/Declaration - Subject to Audit."

**4. Lawful Hiring of Employees Law**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article II of Chapter 353 of the Suffolk County Code.

This Contract is subject to the Lawful Hiring of Employees Law of the County of Suffolk. It provides that all covered employers, (as defined), and the owners thereof, as the case may be, that are recipients of compensation from the County through any grant, loan, subsidy, funding, appropriation, payment, tax incentive, contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or an awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit a completed sworn affidavit (under penalty of perjury), the form of which is attached, certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees (as defined) and with respect to the alien and nationality status of the owners thereof. The affidavit shall be executed by an authorized representative of the covered employer or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement with the County; and shall be made available to the public upon request.

All contractors and subcontractors (as defined) of covered employers, and the owners thereof, as the case may be, that are assigned to perform work in connection with a County contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit to the covered employer a completed sworn affidavit (under penalty of perjury), the form of which is attached, certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees and with respect to the alien and nationality status of the owners thereof, as the case may be.

The affidavit shall be executed by an authorized representative of the contractor, subcontractor, or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement between the covered employer and the County; and shall be made available to the public upon request.

An updated affidavit shall be submitted by each such employer, owner, contractor and subcontractor no later than January 1 of each year for the duration of any contract and upon the renewal or amendment of the Contract, and whenever a new contractor or subcontractor is hired under the terms of the Contract.

The Contractor acknowledges that such filings are a material, contractual and statutory duty and that the failure to file any such statement shall constitute a material breach of the Contract.

Under the provisions of the Lawful Hiring of Employees Law, the County shall have the authority to terminate the Contract for violations of this Law and to seek other remedies available under the law.

The documentation mandated to be kept by this law shall at all times be kept on site. Employee sign-in sheets and register/log books shall be kept on site at all times during working hours and all covered employees, as defined in the law, shall be required to sign such sign-in sheets/register/log books to indicate their presence on the site during such working hours.

**Required Forms:**

Suffolk County Lawful Hiring of Employees Law Form LHE-1; entitled "Suffolk County Department of Labor – Notice Of Application To Certify Compliance With Federal Law (8 U.S.C. Section 1324a) With Respect To Lawful Hiring of Employees."

Suffolk County Lawful Hiring of Employees Law Form LHE-2; entitled "Affidavit Of Compliance With The Requirements Of 8 U.S.C. Section 1324a With Respect To Lawful Hiring Of Employees"

**5. Gratuities**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Chapter 664 of the Suffolk County Code.

The Contractor represents and warrants that it has not offered or given any gratuity to any official, employee or agent of the County or the State or of any political party, with the purpose or intent of securing an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement.

**6. Prohibition Against Contracting with Corporations that Reincorporate Overseas**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of sections A4-13 and A4-14 of Article IV of the Suffolk County Code.

The Contractor represents that it is in compliance with sections A4-13 and A4-14 of Article IV of the Suffolk County Code. Such law provides that no contract for consulting services or goods and services shall be awarded by the County to a business previously incorporated within the U.S.A. that has reincorporated outside the U.S.A.

**7. Child Sexual Abuse Reporting Policy**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article II of Chapter 880 of the Suffolk County Code.

The Contractor shall comply with Article II of Chapter 880, of the Suffolk County Code, entitled "Child Sexual Abuse Reporting Policy," as now in effect or amended hereafter or of any other Suffolk County Local Law that may become applicable during the term of the Contract with regard to child sexual abuse reporting policy.

**8. Non Responsible Bidder**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article II of Chapter 189 of the Suffolk County Code.

Upon signing the Contract, the Contractor certifies that it has not been convicted of a criminal offense within the last ten (10) years. The term "conviction" shall mean a finding of guilty after a trial or a plea of guilty to an offense covered under section 189-5 of the Suffolk County Code under "No responsible Bidder."

**9. Use of Funds in Prosecution of Civil Actions Prohibited**

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article III of Chapter 893 of the Suffolk County Code.

The Contractor shall not use any of the moneys, in part or in whole, and either directly or indirectly, received under the Contract in connection with the prosecution of any civil action against the County in any jurisdiction or any judicial or administrative forum.

**10. Youth Sports**

It shall be the duty of the Contractor to read, become familiar with, and comply with Article III of Chapter 730 of the Suffolk County Code.

All contract agencies that conduct youth sports programs are required to develop and maintain a written plan or policy addressing incidents of possible or actual concussion or other head injuries among sports program participants. Such plan or policy must be submitted prior to the award of a County contract, grant or funding. Receipt of such plan or policy by the County does not represent approval or endorsement of any such plan or policy, nor shall the County be subject to any liability in connection with any such plan or policy.

**11. Work Experience Participation**

If the Contractor is a not-for-profit or governmental agency or institution, each of the Contractor's locations in the County at which the Services are provided shall be a work site for public-assistance clients of Suffolk County pursuant to Chapter 281 of the Suffolk County Code at all times during the Term of the Contract. If no Memorandum of Understanding ("MOU") with the Suffolk County Department of Labor for work experience is in effect at the beginning of the Term of the Contract, the Contractor, if it is a not-for-profit or governmental agency or institution, shall enter into such MOU as soon as possible after the execution of the Contract and failure to enter into or to perform in accordance with such MOU shall be deemed to be a failure to perform in accordance with the Contract, for which the County may withhold payment, terminate the Contract or exercise such other remedies as may be appropriate in the circumstances.

**12. Apprenticeship Training Programs**

- A.** As this is a requirements-type contract and work orders will be issued to those firms listed on the "Notice of Contract", and such work orders may be in excess of \$250,000, the Contract(s) will be subject to Resolution No. 1866-2014, which requires that firms entering into contracts with the County for such work to participate in registered and approved apprenticeship training programs and meet a graduate requirement for each trade. The Contractor and his Subcontractors shall provide evidence of participation in NYS approved apprenticeship training programs that are appropriate for the type and scope of work to be performed under the Agreement. In addition, a contractor and his subcontractors shall submit to the County, Certificates of Completion as part of any bid submitted showing that they, or their sponsor, graduated at least one apprentice from a state approved and registered apprenticeship program, in the trade and/or job title called for within the construction contract, within a time period immediately preceding the bid date of such project, the length of said time period to be calculated by adding twenty-four months to the specific trade's program length as set forth in the New York State Prevailing Wage Schedule. If a contractor or subcontractor is signatory to a sponsor, the contractor must submit to the County a letter from the sponsor verifying its signatory status.
- B.** Within ten (10) working days of the date of receipt of notification from the County of the Contractor's status as the apparent low Bidder, the Contractor shall provide an affidavit of the firm's and the firm's subcontractors' participation in approved apprenticeship training programs and affirm graduate requirements for each trade. If the Contractor does not comply within this time, the Commissioner may declare the Contractor's bid non-responsive and award the Contract to the next lowest responsible Bidder.

- C.** The Contractor shall also submit an affidavit of participating in an approved apprenticeship training program and affirm graduate requirements for each trade from each subcontractor. This affidavit is to be included with the Contractor's request to the County for subcontractor approval. Affidavit forms will be provided by the County.

**13. Suffolk County Local Laws Website Address**

Suffolk County Local Laws, Rules and Regulations can be accessed on the homepage of the Suffolk County Legislature.

**End of Text**