2/11/10

TOWN OF RIVERHEAD

ADOPTED

Resolution *# 110*

AUTHORIZES SUBMISSION OF NYSERDA GRANT APPLICATION

Councilman Wooten offered the following resolution,

which was seconded by Councilman Gabrielsen

WHEREAS, the New York State Energy Research and Development Authority (NYSERDA) is soliciting applications for funding from municipalities through RFP 10: Project Implementation Funding for Small Municipalities under the American Recovery and Reinvestment Act (ARRA) to provide statewide funding for the implementation of energy conservation measures by small municipalities including energy efficiency improvements, renewable energy improvements, efficient transportation system implementation, material conservation, and energy management personnel; and

WHEREAS, the Town of Riverhead Board desires to foster the development of renewable energy infrastructure to lower tax payer funded operational costs of delivering various municipal services including the Riverhead sewer system to encourage continued economic re-development consistent with the Town of Riverhead Comprehensive Plan, East Main Street Urban Renewal Plan and Railroad Avenue Urban Renewal Plan; and

WHEREAS, the Town of Riverhead is eligible for and wishes to pursue funding under RFP 10 to engage the services of an external consultant specializing in Energy Management and Renewable Energy to produce a series of reports for the Town of Riverhead Sewer District to assess the potential of renewable energy at the site culminating in specific recommendations with regard to renewable energy production and integration into the Riverhead Sewage Treatment Plant's electrical system.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board does hereby authorize the Community Development Department to submit an application under RFP 10 for the energy management consultant services described above; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Town of Riverhead Supervisor to execute the required application and documents to submit the grant application to NYSERDA under RFP 10 as described above; and

BE IT FURTHER RESOLVED, that all Town Hall Departments may review and obtain a copy of this resolution from the E-Cabinet and, if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Wooten ☒Yes ☐No Dunleavy ☒Yes ☐No
Giglio ☒Yes ☐No Gabrielsen ☒Yes ☐No
Walter ☒Yes ☐No

The Resolution Was ☒ Was Not☐
Thereupon Duly Declared Adopted

X:\02-11-10\Auth NYSERDA Grant Ap STP Wind - for merge (II).doc

TOWN OF RIVERHEAD

Resolution # 111

AWARDS CALVERTON RAIL ACCESS REHABILITATION CONTRACT

Councilman Gabrielsen offered the following resolution,

which was seconded by Councilwoman Giglio

WHEREAS, the New York State Department of Transportation (NYS DOT) Calverton Industrial Enterprise Park Freight Rail Access Rehabilitation (PIN #0935.61) Economic Recovery Project in the Town of Riverhead, in Suffolk County, (hereinafter "the Municipality/Sponsor") is eligible for and has been awarded funding under Title 23 U.S. Code, as amended, according to the attached contract that calls for the apportionment of the costs of such program to be borne at the ratio of 100% Federal funds and 0% non-federal funds to support, among other things, important infrastructure projects that help attract businesses, improve commerce and revitalize local economies; and

WHEREAS, the Town of Riverhead Board desires to foster the continued development of infrastructure at the Calverton Enterprise Park site to encourage continued economic re-development at the site consistent with the comprehensive plans; and

WHEREAS, in furtherance of the project, the Town Clerk was authorized to publish and post a Notice to Bidders for the Calverton Industrial Enterprise Park Freight Rail Access Rehabilitation, Calverton, New York; and

WHEREAS, seven (7) bids were received, opened and read aloud on the 6th day of January 2010 at 3:00 p.m. in the Office of the Town Clerk, 200 Howell Avenue, Riverhead, New York

NOW, THEREFORE, BE IT RESOLVED, that the bid for the Calverton Industrial Enterprise Park Freight Rail Access Rehabilitation be and is hereby awarded to Railroad Construction Co., Inc. in the amount of Three Million Four Hundred Ninety Six Thousand Six Hundred Eighty Four & 00/100 ($3,496,684.00) subject to the terms of the funding agreement attached as well as a written engagement agreement with the Town of Riverhead; and

BE IT FURTHER RESOLVED, that the Town Board does hereby authorize the Town Clerk to return any and all bid bonds received in connection with the above; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Town of Riverhead Supervisor to execute the required agreements and documents subject to review and approval by the Town Attorney to undertake the program as approved; and

BE IT FURTHER RESOLVED, that the Town Board authorizes and instructs the Accounting Department to set up a budget and issue purchase orders for the above mentioned grant; and

BE IT FURTHER RESOLVED, that all Town Hall Departments may review and obtain a copy of this resolution from the E-Cabinet and, if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Wooten ☒Yes ☐No Dunleavy ☒Yes ☐No
Giglio ☒Yes ☐No Gabrielsen ☒Yes ☐No
Walter ☒Yes ☐No

The Resolution Was ☒ Was Not☐
Thereupon Duly Declared Adopted

MUNICIPALITY/SPONSOR: *Town of Riverhead*
PROJECT ID NUMBER: *0935.61* BIN: *n/a*
PHASE: PER SCHEDULES A

STANDARD
Federal-Aid Highway and Marchiselli Aid Local Project Agreement

COMPTROLLER'S CONTRACT NO D032417

This Agreement is by and between:

the New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Road, Albany, NY 12232, on behalf of New York State ("State");

and

the ***Town of Riverhead*** (the "Municipality/Sponsor")
acting by and through ***the Town Supervisor***
with its office at ***200 Howell Avenue, Riverhead, NY 11901***.

This Agreement covers eligible costs incurred on or after **12/7/2009**.

This Agreement identifies the party responsible for administration, and establishes the method or provision for funding of applicable phases of a Federal-aid project for the improvement of a street or highway not on the State highway system, as such project and phases are more fully described by Schedule A annexed to this Agreement or one or more Supplemental Schedule(s) A to this Agreement as duly executed and approved by the parties hereto. The phases that are potentially the subject of this Agreement, as further enumerated below, are: Preliminary Engineering ("PE") and Right-of-Way Incidental ("ROW Incidentals") work; Right-of-Way Acquisition; Construction; and/or Construction Supervision and Inspection. The Federal-aid project shall be identified for the purposes of this Agreement as ***Calverton Enterprise Park Rail Spur*** (as more specifically described in such Schedule A, the "Project").

WITNESSETH:

WHEREAS, the United States has provided for the apportionment of Federal-aid funds to the State for the purpose of carrying out Federal-aid highway projects pursuant to the appropriate sections of Title 23 U.S. Code as administered by the Federal Highway Administration ("FHWA"); and

WHEREAS, the New York State Highway Law authorizes the Commissioner of Transportation (hereinafter referred to as "Commissioner") to use Federal aid available under the Federal-aid highway acts and provides for the consent to and approval by the Municipality/Sponsor of any project under the Federal-aid highway program which is not on the State highway system before such Project is commenced; and

WHEREAS, pursuant to Highway Law '10(34-a) and section 15 of Chapter 329 of the Laws of 1991 as amended by section 9 of Chapter 330 of the Laws of 1991, the State established the "Marchiselli" Program, that provides State aid for Federal aid highway projects not on the State highway system; and

WHEREAS, pursuant to Chapters 329, 330 and 331 of the Laws of New York of 1991, Highway Law '80-b and Public Authorities Law '380 funding of the "State share" of projects under the Marchiselli Program is provided from the proceeds of Local Highway and Bridge Service Contract Bonds issued by the New York State Thruway Authority ("Thruway Authority Bonds"); and

MUNICIPALITY/SPONSOR: *Town of Riverhead*
PROJECT ID NUMBER: *0935.61* BIN: *n/a*
PHASE: PER SCHEDULES A

WHEREAS, the continuing legislative authorization for the funding of eligible costs of Federal-aid Municipal/Sponsor streets and highway projects from the proceeds of Thruway Authority Bonds is pursuant to a chapter or chapters of the laws of New York State providing appropriations pursuant to Public Authorities Law ' 380(1); and

WHEREAS, projects eligible for Marchiselli aid are identified by the State Legislature in the "Comprehensive List" published in the annual Report of the Fiscal Committees on the Executive Budget (the "Green Book"), and the Project is duly included in the current Green Book; and

WHEREAS, pursuant to authorizations therefore, NYSDOT and the Municipality/Sponsor are desirous of progressing the Project under the Federal-aid and, if applicable, Marchiselli-aid Programs; and

WHEREAS, The Legislative Body of the Municipality/Sponsor by Resolution No. *1095* adopted at meeting held on *12/1/09* approved the Project, the Municipality/Sponsor's entry into this Agreement, has appropriated necessary funds in connection with any applicable Municipal/Sponsor Deposit identified in applicable Schedules A and has further authorized the *Supervisor* of the Municipality/Sponsor to execute this Agreement and the applicable Schedule A on behalf of the Municipality/Sponsor and a copy of such Resolution is attached to and made a part of this Agreement (where New York City is the Municipality/Sponsor, such resolution is not required).

NOW, THEREFORE, the parties agree as follows:

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

oAgreement Form - this document titled "Standard Federal-Aid and Marchiselli-Aid Local Project Agreement";

oSchedule "A" - Description of Project Phase, Funding and Deposit Requirements;

oSchedule "B" - Phases, Subphase/Tasks, and Allocation of Responsibility

oAppendix "A" - New York State Required Contract Provisions

oAppendix "B" - U.S. Government Required Clauses

oMunicipal/Sponsor Resolution(s) - duly adopted Municipal/Sponsor resolution authorizing the appropriate Municipal/Sponsor official to execute this Agreement on behalf of the Municipality/Sponsor and appropriating the funding required therefore. (Where New York City is the Municipality/Sponsor, such resolution is not required).

2. *General Description of Work and Responsibility for Administration and Performance.* Subject to the allocations of responsibility for administration and performance thereof as shown in Schedule B (attached), the work of the Project may consist generally of the categories of work marked and described in Schedule B for the scope and phase in effect according to Schedule A or one or more Supplemental Schedule(s) A as may hereafter be executed and approved by the parties hereto as required for a State contract, and any additions or deletions made thereto by NYSDOT subsequent to the development of such Schedule(s) A for the purposes of conforming to New York State or to Federal Highway Administration requirements.

The Municipality/Sponsor understands that funding is contingent upon the Municipality/Sponsor's compliance with the applicable requirements of the "Procedures for Locally Administered Federal Aid Projects" (available through NYSDOT's web site at: https://www.nysdot.gov/divisions/operating/opdm/local-programs-bureau/locally-administered-federal-aid-projects), in particular the Appendices to Chapter 4 entitled Work Requirements, Record Keeping Guidelines and Consultant Selection Procedures, as such may be amended from time to time.

3. *Municipal/Sponsor Deposit.* Where the work is performed by consultant or construction contract entered into with NYSDOT, or by NYSDOT forces, and unless the total non-Federal share of the Project phase is under $5,000, the Municipality/Sponsor shall deposit with the State Comptroller, prior to the award of NYSDOT's contract or NYSDOT's performance of work by its own forces, the full amount of the non-Federal share of the Project costs due in accordance with Schedule A.

4. *Payment or Reimbursement of Costs.* For work performed by NYSDOT, NYSDOT will directly apply Federal aid and the required Municipal/Sponsor Deposit for the non-Federally-aided portion, and, if applicable, shall request Thruway Authority funding of Marchiselli aid to the Municipality/Sponsor as described below. For work performed by or through the Municipality/Sponsor, NYSDOT will reimburse the Municipality/Sponsor with Federal aid and, if applicable, Marchiselli aid as described below. Billing shall be no more frequent than monthly and must be submitted in no less than six month intervals.

4.1 *Federal Aid.* NYSDOT will administer Federal funds for the benefit of the Municipality/Sponsor for the Federal share and will fund the applicable percentage designated in Schedule A of Federal-aid participating costs incurred in connection with the work covered by this Agreement, subject to the limitations set forth on Schedule A. For work performed by or through the Municipality/Sponsor, NYSDOT will reimburse Federal-aid-eligible expenditures in accordance with NYSDOT policy and procedures.

4.1.1 *Participating Items.* NYSDOT shall apply Federal funds only for that work and those items that are eligible for Federal participation under Title 23 of U.S. Code, as amended, that requires Federal-aid eligible projects to be on the Federal-Aid Highway System ("FAHS"), except for bridge and safety projects that can be off the FAHS. Included among the Federal participating items are the actual cost of employee personal services, and leave and fringe benefit additives. Other participating costs include materials and supplies, equipment use charges or other Federal Participating costs directly identifiable with the eligible project.

4.1.2 *Periodic Reimbursement.* Except where the Municipality/Sponsor proceeds or has proceeded without an agreement with NYSDOT, if the Municipality/Sponsor finds it desirable to have reimbursement made periodically, upon the request and certification therefore by the Municipality/Sponsor, NYSDOT may make Federal-aid progress payments based on either:
a. billings submitted by the consultant;
b. payment estimates prepared by NYSDOT's Engineer-in-Charge; or
c. billings prepared by the Municipality/Sponsor in accordance with NYSDOT requirements, based on costs incurred as disclosed by the records thereof, as required by the Project, with adjustments to be made after audit by NYSDOT or FHWA.

4.2 *Marchiselli Aid (if applicable).* NYSDOT will request Thruway Authority reimbursement to the Municipality of the upset amount and designated percentage in Schedule A of the non-overmatched non-Federal share of Federal participating cost, (the "State share"), incurred in connection with the work covered by this Agreement, subject to the limitations set forth on Schedule A. Not all Federal-aid-eligible participating costs are eligible for Marchiselli aid. Only "Eligible Project Costs" (as defined in Marchiselli Program Instructions issued by NYSDOT) incurred after April 1, 1991 are reimbursable.

4.2.1 *Marchiselli Eligible Project Costs.* To be eligible for Marchiselli Aid, Project costs must: (a) be eligible for Federal participation as described under 4.1; (b) be for work which, when completed, has a certifiable service life of at least 10 years; and (c) be for a work type that relates directly and exclusively to a municipally-owned highway, bridge or highway-railroad crossing off the State Highway System.

4.2.2 *Periodic Reimbursement.* Except where the Municipality proceeds or has proceeded without a Marchiselli Agreement with NYSDOT, if the Municipality finds it desirable to have reimbursement made periodically, upon the request and certification therefore by the Municipality, NYSDOT may submit a request to the Thruway Authority to make progress payments based on the amount of Federal-aid participating expenditures made to date by the New York State Comptroller. For work performed by or through the Municipality, NYSDOT will reimburse eligible Marchiselli expenditures in accordance with Marchiselli program policy and claims procedures, with adjustments to be made after audit by NYSDOT or FHWA.

4.3 In no event shall this Agreement create any obligation to the Municipality/Sponsor for funding or reimbursement of any amount in excess of:

(a) the amount stated in Schedule A for the Federal Share; or
(b) the amount stated in Schedule A as the State (Marchiselli) share or the amount stated in the Comprehensive List, whichever is lower.

4.4 All items included by the Municipality/Sponsor in the record of costs shall be in conformity with accounting procedures acceptable to NYSDOT and the FHWA. Such items shall be subject to audit by the State and the FHWA.

4.5 If Project-related work is performed by NYSDOT, NYSDOT will be paid for the full costs thereof. To effect such payment, the reimbursement to the Municipality/Sponsor provided for in sections 4.1 and 4.2 may be reduced by NYSDOT by the amounts thereof in excess of the Municipal/Sponsor Deposit available for such payment to NYSDOT.

5. *Supplemental Agreements and Supplemental Schedule(s) A.* Supplemental Agreements or Supplemental Schedule(s) A may be entered by the parties, and must be executed and approved in the manner required for a State contract. A Supplemental Schedule A is defined as a Supplemental Agreement which revises only the Schedule A of a prior Agreement or Supplemental Agreement. In the event Project cost estimates increase over the amounts provided for in Schedule A or Eligible Project Costs in the Comprehensive List are increased by the legislature, no additional reimbursement shall be due to the Municipality/Sponsor unless the parties enter into a Supplemental Agreement or Supplemental Schedule A for reimbursement of additional Eligible Project Costs.

6. *State Recovery of Ineligible Reimbursements.* NYSDOT shall be entitled to recover from the Municipality/Sponsor any monies paid to the Municipality/Sponsor pursuant to this Agreement which are subsequently determined to be ineligible for Federal aid or Marchiselli Aid hereunder.

7. *Loss of Federal Participation.* In the event the Municipality/Sponsor withdraws its approval of the project, suspends or delays work on the Project or takes other action that results in the loss of Federal participation for the costs incurred pursuant to this Agreement, the Municipality/Sponsor shall refund to the State all reimbursements received from the State, and shall reimburse the State for 100% of all preliminary engineering and right-of-way incidental costs incurred by NYSDOT. The State may offset any other State or Federal aid due to the Municipality/Sponsor by such amount and apply such offset to satisfy such refund.

8. *Municipal/Sponsor Liability.*

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

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

9. *Maintenance.* Except as otherwise provided for a NYSDOT administered project during its construction phase only, the Municipality/Sponsor shall be responsible for the maintenance of the project at the sole cost and expense of the Municipality/Sponsor. If the Municipality/Sponsor intends to have the project maintained by another, any necessary maintenance agreement will be executed and submitted to NYSDOT before construction of the Project is begun. Upon its completion, the Municipality/Sponsor will operate and maintain the Project at no expense to NYSDOT and, during the useful life of the Project, the Municipality/Sponsor shall not discontinue operation of the Project without the prior written approval of NYSDOT. The Municipality/Sponsor will not dispose of the Project during its useful life without the prior approval of NYSDOT. In the event of such approved disposition, the Municipality/Sponsor shall either cause the purchaser or transferee to assume the Municipality/Sponsor's continuing obligations under this Agreement, or shall reimburse NYSDOT for the pro-rata share of the grant over the remaining useful life of the Project.

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

11. *Contract Executory; Required Federal Authorization.* It is understood by and between the parties hereto that this Agreement shall be deemed executory only to the extent of the monies available to the State and no liability on account thereof shall be incurred by the State beyond monies available for the purposes hereof. No phase of work for the project shall be commenced unless and until NYSDOT receives authorization from the Federal government.

12. *Assignment or Other Disposition of Agreement.* The Municipality/Sponsor agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement or any part thereof, or of its right, title or interest therein, or its power to execute such Agreement to any person, company or corporation without previous consent in writing of the Commissioner.

13. *Term of Agreement.* As to the Project and phase(s) described in the Schedule A executed herewith, the term of this Agreement shall begin on the date of this Agreement as first above written. This Agreement shall remain in effect so long as Federal-aid and Marchiselli-aid funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this Agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a Federal or State budgetary hiatus will not by itself be construed to cause a lapse in this Agreement provided any necessary Federal or State appropriations or other funding authorizations therefore are eventually enacted.

14. *NYSDOT Obligations.* NYSDOT's responsibilities and obligations are as specifically set forth in this contract, and neither NYSDOT nor any of its officers or employees shall be responsible or liable, nor shall the Municipality/Sponsor assert, make or join in any claim or demand against NYSDOT, its officers or employees, for any damages or other relief based on any alleged failure of NYSDOT, its officers or employees, to undertake or perform any act, or for undertaking or performing any act, which is not specifically required or prohibited by this Agreement.

15. *Reporting Requirements.* The Municipality/Sponsor agrees to comply with and submit to NYSDOT in a timely manner all applicable reports required under the provisions of this Agreement, the Procedures for Locally Administered Federal Aid Projects manual and in accordance with current Federal and State laws, rules, and regulations.

16. *Required Clauses.* Attached hereto and made a part of this Agreement as if set forth fully herein is Appendix A, Standard Clauses For NYS Contracts.

0032477

MUNICIPALITY/SPONSOR: *Town of Riverhead*
PROJECT ID NUMBER: *0935.61* BIN: *n/a*
PHASE: PER SCHEDULES A

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials as of the date first above written.

MUNICIPALITY/SPONSOR:

By: [signature]

Print Name: Phil Cardinale

Title: Supervisor

MUNICIPALITY/SPONSOR ATTORNEY:

By: Dawn C. Thomas by: Annemarie Prudenti Deputy Town Attorney

Print Name: DAWN C. THOMAS

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

On this 8th day of December, 2009 before me personally came Phil Cardinale to me known, who, being by me duly sworn did depose and say that he/she resides at Jamesport, NY; that he/she is the Supervisor of the Municipal/Sponsor Corporation described in and which executed the above instrument; (except New York City) that it was executed by order of the _____ of said Municipal/Sponsor Corporation pursuant to a resolution which was duly adopted on _____ and which a certified copy is attached and made a part hereof; and that he/she signed his name thereto by like order.

Sarah Manarel
Notary Public State of NY
No. 01MA6086779, County of Suffolk
Commission Expires February 2011

[signature]
Notary Public

APPROVED FOR NYSDOT:

BY: [signature]
For Commissioner of Transportation

Agency Certification: In addition to the acceptance of this contract I also certify that original copies of this signature page will be attached to all other exact copies of this contract.

Date: DEC 29 2009

APPROVED AS TO FORM:
STATE OF NEW YORK ATTORNEY GENERAL

APPROVED AS TO FORM
NYS ATTORNEY GENERAL
DEC 30 2009
[signature]
PETER FAVRETTO
ASSOCIATE ATTORNEY

By: _____
Assistant Attorney General

COMPTROLLER'S APPROVAL

APPROVED
DEPT. OF AUDIT & CONTROL
JAN 08 2010
[signature]
FOR THE STATE COMPTROLLER

By: _____
For the New York State Comptroller
Pursuant to State Finance Law - 112

NYSDOT/Local Agreement - Schedule A for PIN 0935.61

OSC Municipal Contract #: _____

Contract End Date: 3/31/2011 (mm/dd/yyyy)
☐ *Check, if date changed from the last Schedule A*

Purpose: ☒ Original Standard Agreement ☐ Supplemental Schedule A No.

Agreement Type:
☒ Locally Administered — Municipality/Sponsor (Contract Payee): Town of Riverhead
Other Municipality/Sponsor (if applicable):

☐ State Administered — *List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies.*
☐ Municipality: % of Cost share
☐ Municipality: % of Cost share
☐ Municipality: % of Cost share

Authorized Project Phase(s) to which this Schedule applies: ☐ PE/Design ☐ ROW Incidentals ☐ ROW Acquisition ☒ Construction/CI/CS

Work Type: See Footnote

County (If different from Municipality): County of Suffolk

Project Description ☐ *(Check, if changed from last Schedule A):* Calverton Enterprise Park Rail Spur: Rehab freight
Additional Project Description (if required): rail access to Calverton Industrial Park from LIRR Main line. Rail Spur is 2.3 miles from LIRR Main line along south side of Connecticut Ave across Grumman Blvd.
Marchiselli Eligible ☐ Yes ☒ No

Approved Marchiselli Allocations in Legislature's Comprehensive List FOR All PHASES

To compute Total Costs in the last row and column, right click in each field and select "Update Field."

Check box to indicate change from last Schedule A	State Fiscal Year(s)	Project Phase			TOTAL
		PE/Design	ROW (RI & RA)	Construction/CI/CS	
☐	Cumulative total for all prior SFYs	$	$	$	$ 0.00
☐	Current SFY	$	$	$	$ 0.00
	Authorized Allocations to Date	$ 0.00	$ 0.00	$ 0.00	$ 0.00

A: Summary of allocated MARCHISELLI Program Costs FOR ALL PHASES

For each PIN Fiscal Share below, show current costs on the rows indicated as "Current." Show the old costs from the previous Schedule A on the row indicated as "Old." To compute Total Current Costs in the last row, right click in each field and select "Update Field."

PIN Fiscal Share	"Current" or "Old" entry indicator	Federal Funding Program	Total Costs	FEDERAL Participating Share and Percentage	STATE MARCHISELLI Match	LOCAL Matching Share	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
	Current		$	$	$	$	$
	Old		$	$	$	$	$
	Current		$	$	$	$	$
	Old		$	$	$	$	$
	Current		$	$	$	$	$
	Old		$	$	$	$	$
	Current		$	$	$	$	$
	Old		$	$	$	$	$
	Current		$	$	$	$	$
	Old		$	$	$	$	$
	Current		$	$	$	$	$
	Old		$	$	$	$	$
TOTAL CURRENT COSTS:			$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

B. Summary of Other (including Non-allocated MARCHISELLI) Participating Costs FOR ALL PHASES *For each PIN Fiscal Share, show current costs on the rows indicated as "Current.". Show the old costs from the previous Schedule A on the row indicated as "Old." To compute Total Current Costs in last row, right click in each field and select "Update Field."*

Other PIN Fiscal Shares	'Current' or 'Old' entry indicator	Funding Source	TOTAL	Other FEDERAL	Other STATE	Other LOCAL
0935.61.321	Current	Other (see footnote)	$4,800,000.00	$4,800,000.00	$	$
	Old					
. .	Current		$	$	$	$
	Old					
. .	Current		$	$	$	$
	Old					
. .	Current		$	$	$	$
	Old					
. .	Current		$	$	$	$
	Old					
. .	Current		$	$	$	$
	Old					
. .	Current		$	$	$	$
	Old					
. .	Current		$	$	$	$
	Old					
TOTAL CURRENT COSTS:			$4,800,000.00	$4,800,000.00	$ 0.00	$ 0.00

C. Total Local Deposit(s) Required for State Administered Projects:	$

D. Total Project Costs *To compute Total Costs in the last column, right click in the field and select "Update Field."*

Total FEDERAL Cost	Total STATE MARCHISELLI Cost	Total Other STATE Cost	Total LOCAL Cost	Total Costs (all sources)
$4,800,000.00	$	$	$	$4,800,000.00

E. Point of Contact for Questions Regarding this Schedule A (Must be completed)	Name: Dennis Baydar 12/8/09 Phone No: 631-952-6026

See Agreement (or Supplemental Agreement Cover) for required contract signatures.

NYSDOT/Local Agreement – Schedule A

Footnotes: (See LPB Website for link to sample footnotes)

- 2009 AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDS AT 100% FEDERAL REIMBURSEMENT.
- Work Type: Rail Rehabilitation
-
-
-
-
-
-
-
-
-

SCHEDULE B

SCHEDULE B: Phases, Subphase/Tasks, and Allocation of Responsibility

Instructions: Enter an "X" to indicate the appropriate Phase, then assign the responsibility for each applicable Subphase task by entering a "X" in either the NYSDOT column to allocate the task to State Labor Forces or a State Contract, or enter an "X" in the other appropriate column to indicate a task allocated to Non-State Labor Forces or a Locally Administered Contract.

PHASE/SUBPHASE	Allocation of Responsibility	
	NYSDOT	Municipality
A1. Preliminary Engineering ("PE") Phase		
1. Scoping: Prepare and distribute all required project reports, including an Expanded Project Proposal (EPP) or Scoping Summary Memorandum (SSM), as appropriate.		
2. Perform data collection and analysis for design, including traffic counts and forecasts, accident data, land use and development analysis and forecasts.		
3. Preliminary Design: Prepare and distribute Design Report/Design Approval Document (DAD), including environmental analysis/assessments, and other reports required to demonstrate the completion of specific design subphases or tasks and/or to secure the approval/authorization to proceed.		
4. Review and Circulate all project reports, plans, and other project data to obtain the necessary review, approval, and/or other input and actions required of other NYSDOT units and external agencies.		
5. Obtain aerial photography and photogrammetric mapping.		
6. Perform all surveys for mapping and design.		
7 Detailed Design: Perform all project design, including preparation of plan sheets, cross-sections, profiles, detail sheets, specialty items, shop drawings, and other items required in accordance with the Highway Design Manual, including all Highway Design, including pavement evaluations, including taking and analyzing cores; design of Pavement mixes and applications procedures; preparation of bridge site data package, if necessary, and all Structural Design, including hydraulic analyses, if necessary, foundation design, and all design of highway appurtenances and systems (e.g., Signals, IVHS facilities), and maintenance protection of traffic plans. FRA criteria will apply to rail work.		
8. Perform landscape design (including erosion control).		

PHASE/SUBPHASE	Allocation of Responsibility	
	NYSDOT	Municipality
9. Design environmental mitigation, where appropriate, in connection with: Noise readings, projections, air quality monitoring, emissions projections, hazardous waste, asbestos, determination of need of cultural resources survey.		
10. Prepare demolition contracts, utility relocation plans/contracts, and any other plans and/or contract documents required to advance, separate, any portions of the project which may be more appropriately progressed separately and independently.		
11. Compile PS&E package, including all plans, proposals, specifications, estimates, notes, special contract requirements, and any other contract documents necessary to advance the project to construction.		
12. Conduct any required soils and other geological investigations.		
13. Obtain utility information, including identifying the locations and types of utilities within the project area, the ownership of these utilities, and prepare utility relocations plans and agreements, including completion of Form HC-140, titled Preliminary Utility Work Agreement.		
14. Determine the need and apply for any required permits, including U.S. Coast Guard, U.S. Army Corps of Engineers, Wetlands (including identification and delineation of wetlands), SPDES, NYSDOT Highway Work Permits, and any permits or other approvals required to comply with local laws, such as zoning ordinances, historic districts, tax assessment and special districts.		
15. Prepare and execute any required agreements, including: --Railroad force account --Maintenance agreements for sidewalks, lighting, signals, betterments --Betterment Agreements --Utility Work Agreements for any necessary Utility Relocations of Privately owned Utilities.		
16. Provide overall supervision/oversight of design to assure conformity with Federal and State design standards or conditions, including final approval of PS&E by NYSDOT.		

PHASE/SUBPHASE	Allocation of Responsibility	
	NYSDOT	Municipality
17. The American Recovery and Reinvestment Act (ARRA) projects require additional extensive reporting. The Municipality/Sponsor must include in its construction contract the additional ARRA reporting requirements related to the weekly employment during Construction or as modified by the Federal Highway Administration (FHWA).		
18. Pursuant to Title IX, Section 902 of the ARRA, the U.S. DOT Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any records of its subcontractors, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors regarding such transactions.		
A2. Right-of-Way (ROW) Incidentals		
1. Prepare ARM or other mapping, showing preliminary taking lines.		
2. Right-of-Way (ROW) mapping and any necessary ROW relocation plans.		
3. Obtain abstracts of title and certify those having an interest in Right-of-Way to be acquired.		
4. Secure Appraisals.		
5. Perform Appraisal Review and establish an amount representing just compensation.		
6. Determination of exemption from public hearing that is otherwise required by the Eminent Domain Procedure Law, including "de minimis" determination, as may be applicable. **If NYSDOT is responsible for acquiring the right-of-way, this determination may be performed by NYSDOT only if NYSDOT is responsible for the Preliminary Engineering Phase under Phase A1 of this Schedule B.**		
7. Conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedures Law, including the provision of stenographic services, preparation and distribution of transcripts, and response to issues raised at such meetings.		

PHASE/SUBPHASE	Allocation of Responsibility	
	NYSDOT	Municipality
8. The American Recovery and Reinvestment Act (ARRA) projects require additional extensive reporting. The Municipality/Sponsor must include in its construction contract the additional ARRA reporting requirements related to the weekly employment during Construction or as modified by the Federal Highway Administration (FHWA).		
9. Pursuant to Title IX, Section 902 of the ARRA, the U.S. DOT Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any records of its subcontractors, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors regarding such transactions.		
B. Right-of-Way (ROW) Acquisition		
1. Perform all Right-of-Way (ROW) Acquisition work, including negotiations with property owners, acquisition of properties and accompanying legal work, payments to and/or deposits on behalf of property owners; Prepare, publish, and pay for any required legal notices; and all other actions necessary to secure title to, possession of, and entry to required properties. **If NYSDOT is to acquire property on behalf of the Municipality, the Municipality agrees to accept and take title to any and all permanent property rights so acquired which form a part of the completed Project.**		
2. Provide required relocation assistance, including payment of moving expenses, replacement supplements, mortgage interest differentials, closing costs, mortgage prepayment fees.		
3. Conduct condemnation proceedings, court and any other legal actions required to acquire properties.		
4. Monitor all ROW Acquisition work and activities, including review and processing of payments of property owners.		
5. Provide official certification that all right-of-way required for the construction has been acquired in compliance with applicable Federal, State or Local requirements and is available for use and/or making projections of when such property(ies) will be available if such properties are not in hand at the time of contract award.		
6. Conduct any property management activities, including establishment and collecting rents, building maintenance and repairs, and any other activities necessary to sustain properties and/or tenants until the sites are vacated, demolished, or otherwise used for the construction project.		
7. **Subsequent to completion of the Project, conduct ongoing property management activities in a manner consistent with applicable Federal, State and Local requirements including, as applicable, the development of any ancillary uses, establishment and collection of rent, property maintenance and any other related activities.**		

PHASE/SUBPHASE	Allocation of Responsibility	
	NYSDOT	Municipality
8. The American Recovery and Reinvestment Act (ARRA) projects require additional extensive reporting. The Municipality/Sponsor must include in its construction contract the additional ARRA reporting requirements related to the weekly employment during Construction or as modified by the Federal Highway Administration (FHWA).		
9. Pursuant to Title IX, Section 902 of the ARRA, the U.S. DOT Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any records of its subcontractors, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors regarding such transactions.		
C. Construction, Construction Support (C/S) and Construction Inspection (C/I) Phase		X
1. Advertise contract lettings and distribute contract documents to prospective bidders.		X
2. Conduct all contract lettings, including receipt, opening, and analysis of bids, evaluation/certification of bidders, notification of rejected bids/bidders, and awarding of the construction contract(s).		X
3. Receive and process bid deposits and verify any bidder's insurance and bond coverage that may be required.		X
4. Compile and submit Contract Award Documentation Package.		X
5. Review and approve any proposed subcontractors, vendors, or suppliers.		X
6. Conduct and control all construction activities in accordance with the plans and proposal for the project. Maintain accurate, up-to-date project records and files, including all diaries and logs, to provide a detailed chronology of project construction activities. Procure or provide all materials, supplies and labor for the performance of the work on the project, and insure that the proper materials, equipment, human resources, methods and procedures are used.		X
7(A). For non-NHS or non-State Highway System Projects: Test and accept materials, including review and approval for any requests for substitutions. 7(B). For NHS or State Highway System Projects: Inspection and approval of materials such as bituminous concrete, Portland cement concrete, structural steel, concrete structural elements and/or their components to be used in a federal aid project will be performed by, and according to the requirements of NYSDOT. The Municipality shall make or require provision for such materials inspection in any contract or subcontract that includes materials that are subject to inspection and approval in accordance with the applicable NYSDOT design and construction standards associated with the federal aid project.		X

PHASE/SUBPHASE	Allocation of Responsibility	
	NYSDOT	Municipality
8. Design and/or re-design the project or any portion of the project that may be required because of conditions encountered during construction.		X
9. Administer construction contract, including the review and approval of all contactor requests for payment, orders-on-contract, force account work, extensions of time, exceptions to the plans and specifications, substitutions or equivalents, and special specifications.		X
10. The American Recovery and Reinvestment Act (ARRA) projects require additional extensive reporting. The Municipality/Sponsor must include in its construction contract the additional ARRA reporting requirements related to the weekly employment during Construction or as modified by the Federal Highway Administration (FHWA).		X
11. Pursuant to Title IX, Section 902 of the ARRA, the U.S. DOT Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any records of its subcontractors, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors regarding such transactions.		X
12. Review and approve all shop drawings, fabrication details, and other details of structural work.		X
13. Administer all construction contract claims, disputes or litigation.		X
14. Perform final inspection of the complete work to determine and verify final quantities, prices, and compliance with plans specifications, and such other construction engineering supervision and inspection work necessary to conform to Municipal, State and FHWA requirements, including the final acceptance of the project by NYSDOT.		X
D. Requirements for OGS-Let Bituminous Concrete (VPP) and Liquid Bituminous Materials Projects		
Prep work: 1. Project development should be coordination with regional safety personnel to ensure conformance to the Safety Appurtenances Program (see Appendix 3E of the Comprehensive Pavement Design Manual) and the 1R process, provided in Appendix 3D of the Comprehensive Pavement Design Manual.		
2. A Safety Audit Team should review selected sites soon after project selection to identify current safety concerns that should be addressed prior to paving, and analyze current accident data and make recommendations for safety improvements.		
3. Identify any current conditions experiencing superelevation, (ie., curves where it is determined that existing operating		

speeds are now causing or may in the future cause, vehicles to travel of the roadway). Evaluate the effectiveness of alternative remediation treatments (signing, delineation, etc). Schedule superelevation or alternative treatments to be done prior to performing pavement work for OGS-let VPP contracts.		
4. Replace missing regulatory or warning signs as noted by the Safety Audit Team.		
5. Conduct other prep work, such as truing and leveling is to be used as at spot locations to remove irregularities in the old pavement, fill and patch pot holes and correct variations in banked pavement.		
6. Safety work should be completed as soon as possible preferably within 2 months of the paving work, unless otherwise specified. This includes replacement of pavement markings, delineation, rumble strips, shoulder work and guide rail replacement, modification or relocation, etc.		
7. As soon as possible, preferably within 2 months of the paving work, unless otherwise specified, overlay splices for side roads and driveways as necessary.		

APPENDIX A: STANDARD CLAUSES FOR NYS CONTRACTS

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

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

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds $50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed $85,000 (State Finance Law Section 163.6.a).

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

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, 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 reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issu by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prev

wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

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

8. INTERNATIONAL BOYCOTT PROHIBITION: In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds $5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter or three (3) years after final payment, whichever is later. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in

Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law..

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

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

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

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

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

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

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

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

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

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

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

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

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

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

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

NYS Department of Economic Development
Division for Small Business
30 South Pearl St – 7th Floor
Albany, New York 12245
Telephone: 518-292-5220

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St – 2nd Floor
Albany, New York 12245

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

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

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

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

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

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

22. PURCHASES OF APPAREL. In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

23. CONTRACT TERMINATION PROVISION. The State reserves the right to terminate this contract in the event it is found that the certification filed by the Contractor in accordance with the requirements contained in State Finance Laws §139j and §139k was intentionally false or intentionally incomplete. Upon such finding, the State may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the contract.

24. PERSONAL INFORMATION SECURITY. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

APPENDIX B: REQUIREMENTS FOR FEDERALLY AIDED TRANSPORTATION PROJECTS

There is a substantial body of requirements attached to the use of Federal highway or transportation aid. These requirements create or overlay processes, procedures, documentation requirements, authorizations, approvals and certifications that may be substantially greater or different from those that are not funded with Federal-aid and proceed under applicable State and local laws, customs and practices. Under Title 23 of the United States Code, NYSDOT is responsible for the administration of transportation projects in New York State to which NYSDOT provides Federal highway or transportation-related aid. Through this Agreement, which provides or is associated with such funding, NYSDOT delegates various elements of project and funding administration as described elsewhere in this Agreement. In undertaking a Federally aided project, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement with Federal-aid funding or project administration undertakes to proceed in compliance with all the applicable Federal-aid requirements.

NYSDOT has, in cooperation with FHWA, assembled the body of Federal-aid requirements, together with information, NYSDOT procedures and practices in its "Procedures for Locally Administered Federal-Aid Projects" (available through NYSDOT's web site at: https://www.nysdot.gov/portal/page/portal/divisions/operating/opdm/community-assistance-delivery-bureau/locally-administered-federal-aid-projects). In addition, the Municipality/Sponsor, Authority or Project Manager designated under this Agreement with Federal-aid funding or project administration that enters Federally aided project construction contracts is required to physically incorporate into all its Federally aided construction contracts and subcontracts there under the provisions that are contained in Form FHWA-1273 (available from NYSDOT or electronically at: http://www.fhwa.dot.gov/programadmin/contracts/1273.htm).

In addition to the referenced requirements, the attention of Municipality/Sponsor hereunder is directed to the following requirements and information:

NON DISCRIMINATION/EEO/DBE REQUIREMENTS

The Municipality/Sponsor and its contractors agree to comply with Executive Order 11246, entitled "Equal Employment Opportunity" and Department of Transportation regulations (49CFR Parts 21, 23, 25, 26 and 27) and the following:

1. NON DISCRIMINATION. No person shall, on the ground of race, color, creed, national origin, sex, age or handicap, be excluded from participation in, or denied the benefits of, or be subject to, discrimination under the Project funded through this Agreement.

2. EQUAL EMPLOYMENT OPPORTUNITY. In connection with the execution of this Agreement, the Municipality/Sponsor's contractors or subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, color, sex or national origin. Such contractors shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin or age. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

3. DISADVANTAGED BUSINESS ENTERPRISES. In connection with the performance of this Agreement, the Municipality/Sponsor shall cause its contractors to cooperate with the State in meeting its commitments and goals with regard to the utilization of Disadvantaged Business Enterprises (DBEs) and will use its best efforts to ensure that DBEs will have opportunity to compete for subcontract work under this Agreement. Also, in this connection the Municipality or Sponsor shall cause its contractors to undertake such actions as may be necessary to comply with 49CFR Part 26.

FEDERAL SINGLE AUDIT REQUIREMENTS

Non-Federal entities that expend $500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations". Non-Federal entities

that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non-Federal entities that expend less than $500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. ____. 215 (a) of OMB Circular A-133 Subpart B—Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency[1] the New York State Department of Transportation, the New York State Comptroller's Office and the U.S. Governmental Accountability Office (GAO).

Non-Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of federal award payments.

THE CATALOG OF FEDERAL DOMESTIC ASSITANCE

The Catalog of Federal Domestic Assistance (CFDA), is an on-line database of all Federally-aided programs available to State, and local governments (including the District of Columbia); federally -recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi-public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals. The database is accessible at http://www.cfda.gov/.

THE CFDA IDENTIFICATION NUMBER

OMB Circular A-133 requires all Federal-aid recipients to identify and account for awards and expenditures by CFDA Number. The Municipality/Sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

The most commonly used CFDA number for the Federal-aid Highway Planning and Construction program is 20.205. Additional CFDA numbers for other transportation and non-transportation related programs are:
20.215, Highway Training and Education
20.219, Recreational Trails Program
20.XXX, Highway Planning and Construction - Highways for LIFE;
20.XXX, Surface Transportation Research and Development;
20.500, Federal Transit-Capital Investment Grants
20.505, Federal Transit-Metropolitan Planning Grants
20.507, Federal Transit-Formula Grants
20.509, Formula Grants for Other Than Urbanized Areas
20.600, State and Community Highway Safety
23.003, Appalachian Development Highway System
23.008, Appalachian Local Access Roads

PROMPT PAYMENT MECHANISMS

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 7 calendar days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

(1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

(2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime

[1] The designated cognizant agency for audit shall be the Federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB changes it.

contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 7 calendar days after the subcontractor's work is satisfactorily completed.

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 7 calendar days after your payment to the prime contractor.

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

ARRA REPORTING & RECORD KEEPING REQUIREMENTS

Applicable To

Transportation Projects Funded by the American Recovery & Reinvestment Act (ARRA)

The following information is applicable to public and private entities including state agencies, municipal governments, prime contractors, subcontractors and consultant firms contractually associated with State Let or Local Let transportation projects funded in total, or in part, by the ARRA.

The ARRA, signed into law on February 17, 2009, contains various reporting requirements including employment and jobs data related directly and indirectly to projects receiving funds from the legislation. The ARRA legislation requires all entities, both public and private, to make available to various State and Federal Agencies all records, documentation and related materials of ARRA funded contracts for inspection and audit purposes. Refer to Attachment 1. The ARRA legislation also requires all entities, both public and private, to accept the authority of both the Comptroller General and the Inspector General. Refer to Attachment 2.

For all reporting entities the Federal Highway Agency form "FHWA-1589", Revision 3-25, is to be completed on a monthly basis. Refer to Attachment 3 for the subject form and its instruction sheet.

All reporting entities, including subcontractors and subconsultants, are required to include their DUNS number (Dunn & Bradstreet Unique Identification Number) on the subject form, however, subcontractors and subconsultants who do not currently have a DUNS number are NOT required to obtain such. All other reporting entities must have a DUNS number.

The specific process for each reporting entity is described below. If the FHWA-1589 form is not properly completed and submitted by the scheduled submittal date, the NYSDOT may withhold the related monthly billing request.

1) For Consultants under contract with the NYSDOT whose contract is funded by provisions of the ARRA;

   The firm will submit the FHWA -1589 form on a monthly basis attached to their monthly or appropriate bi-monthly billing request. If a billing request is not available for submittal by the 10th of the month the FHWA-1589 form shall be submitted separately with supporting documentation.

   The Regional Office, or M.O. Division Group receiving the monthly billing request for review, approval and signature will verify the computational accuracy of the FHWA-1589 form information, initial the form and forward a copy of the signed, original form to the M.O. Delivery Division. The original signed document will remain attached to the monthly billing request.

2) For Contractors under contract with the NYSDOT whose contract is funded by provisions of the ARRA;

   The firm will enter the additional employee work hour and wage information for ARRA funded capital construction contracts into the EBO (Euitable Business Opportunities) computer application as is currently required on NYSDOT construction contracts. Note that the EBO

computer application is being modified to accept the additional information required for ARRA funded contracts. Until such time the EBO application modifications are available for use contractors shall retain the required data for eventual input into EBO.

The contractor must also complete the FHWA-1589 form and submit the signed original form attached to their monthly billing request. If a billing request is not available for submitted by the 10th of the month the FHWA-1589 form shall be submitted separately with supporting documentation. The contractor is to complete the form for both their own employees and their subcontractor's employees. Subcontractors are also required to enter the information into the EBO computer application as is currently required on NYSDOT construction contracts.

For those contracts which do not require the EBO computer application the contractor is not required to use EBO, but shall only complete the FHWA-1589 form as instructed herein.

The Regional Construction Groups are responsible to verify the computational accuracy of the FHWA-1589 form information, initial the form and forward a copy of the signed, original form to the M.O. Delivery Division. The original signed document will remain attached to the monthly billing request.

3) For Local Municipal Governments under contract with the NYSDOT whose employees are funded by provisions of the ARRA;

The local government will submit the FHWA-1589 form on a monthly basis attached to their monthly billing request. If a billing request is not available for submittal by the 10th of the month the FHWA-1589 form shall be submitted separately with supporting documentation.

The Regional Office, or M.O. Division Group receiving the monthly billing request for review, approval and signature will verify the computational accuracy of the FHWA-1589 form information, initial the form and forward a copy of the signed, original form to the M.O. Delivery Division. The original signed document will remain attached to the monthly billing request.

4) For contractors and consultants under contract to Local Municipal Government whose projects are funded by provisions of the ARRA;

The firms will submit the FHWA-1589 form on a monthly basis attached to their monthly billing request to the local government. If a billing request is not available for submittal by the 10th of the month the FHWA-1589 form shall be submitted separately with supporting documentation.

The Local Municipal Government receiving the monthly billing request for review, approval and signature will verify the FHWA-1589 form information, co-sign the form(s) and attach a copy of the form(s) to their monthly billing request to the NYSDOT. The Local Municipal Government will retain the original form(s) as project records.

The Regional Office, or M.O. Division Group receiving the monthly billing request will verify the computational accuracy of the FHWA-1589 information, initial the form(s) and forward a copy of the signed form(s) to the M.O. Delivery Division. The signed document(s) will remain attached to the monthly billing request.

ATTACHMENT 1
American Recovery and Reinvestment Act of 2009 (ARRA)
ADDITIONAL CONTRACT RECORD KEEPING REQUIREMENTS

If this Contract is funded, in whole or in part, by the American Recovery and Reinvestment Act of 2009 (ARRA), the State must provide certain information on jobs and employment to the Federal Highway Administration (FHWA). This will require all reporting entities including the State, local governments, project sponsors, contractors and consultants who work on ARRA funded Projects to provide information to the State in accordance with Reporting Requirements published by the FHWA on March 23, 2009. The FHWA Reporting Requirements, and any additional requirements issued or to be issued by FHWA, are made a part of this Contract, as though fully set forth at length herein.

All Entities shall submit Monthly Employment Reports providing required information on its workforce and the workforce of all subcontractors and sub-consultants who were active on the Contract during the reporting month. Contractors and Consultants shall report the direct project related job information for their workforce and the workforce of all Subcontractors or Sub-consultants active during the reporting month. These jobs include all employees actively engaged in projects who work on the jobsite, in the project office, in the home office, or who telework from a home or other alternative work location. These jobs also include any engineering personnel, inspectors, sampling and testing technicians, and lab technicians performing work directly in support of the ARRA funded project, but do not include material suppliers. Information will also be required concerning total hours worked for all employees reported and the total dollar amount of wages paid.

There will be no additional compensation for this reporting activity and the Monthly Report Form (FHWA-1589) will be required in both paper and electronic formats (MS Excel Spreadsheet Format).

Entities shall complete a Report for each month from the date of contract award or the Notice to Proceed until Completion and Acceptance of the Contract. It is recommended Local Municipal Governments, contractors and consultants insert the entire Special Note into subsequent agreements (any contract receiving ARRA funding) related to this Contract. By completing the Report, an entity certifies that they are knowledgeable of the hours worked and the employment status for all employees listed. All entities are responsible to maintain data to support the Monthly Report Form and to make it available to the State or Federal Government should the State or Federal Government request such supporting documents and materials.

File Name: ARRA Reporting Attachment #1
File Date: 04/14/09

ATTACHMENT 2

American Recovery and Reinvestment Act of 2009 (ARRA)

AUTHORITY OF THE COMPTROLLER GENERAL AND THE INSPECTOR GENERAL

AUTHORITY OF THE COMPTROLLER GENERAL:

Pursuant to Title IX, Section 902 of the American Reinvestment And Recovery Act (ARRA), the Comptroller General and his representatives are authorized to: 1) examine any records of the contractor, or any of its subcontractors, or any local agency administering such contract, that directly pertain to and involve transactions relating to the contract or subcontract, and 2) interview any officer or employee of the contractor or any of its subcontractors, or any local government agency administering the contract, regarding such transactions.

AUTHORITY OF THE INSPECTOR GENERAL:

Section 1515(a) of the American Recovery and Reinvestment Act (ARRA) provides authority for any representative of the Inspector General to examine any records or interview any employee or officers working on this contract. The Contractor is advised that representatives of the inspector general have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that nothing in this section of the law shall be interpreted to limit or restrict in any way any existing authority of the Inspector General.

ATTACHMENT 3

American Recovery and Reinvestment Act of 2009 (ARRA)

FHWA Form-1589 & Instructions

Monthly Employment Report (Form: FHWA-1589)

Monthly employment information on each ARRA project is used by States for meeting the reporting requirements of Sections 1201 and 1512. In order for States to fulfill their reporting obligations, the States must collect and analyze certain employment data for each ARRA funded contract. This data to be reported is identified below and will be used by the States in developing Form 1587, which is to be submitted to FHWA. Reporting Entities shall complete a report for each month from the date of the contract award or Notice to Proceed until acceptance and completion of the contract. This report is only required for contracts that use ARRA funds. Prime contractors and consultants are required to provide the required information for their own workforce as well as the workforce of all subcontractors that were active on their ARRA funded project(s) for the reporting month. The 1589 form is due to the State no later than the 10th day of each month for the preceding month's data.

The states shall require the following data be provided by each contractor, consultant and funding recipient working on an ARRA project. The prime contractor or consultant for each project shall be responsible for reporting their firm as well as all subcontractors data.

Due date: Monthly, by the 10th of each month for the proceeding months data from contract award date or Notice to Proceed until contract completion.

Due to: To be sent by each ARRA funded project entity to the designated office in NYSDOT.

Coding Instructions

BOX 1. **Report Month:** The month and year covered by the report, as mm/yyyy (e.g. "May 2009" would be coded as "05/2009").

BOX 2. **Contracting agency:** The name of the contracting agency. Enter "State" for State DOT projects. For non-State projects, enter the name of the contracting agency (contractor, consultant, city, county, or other funding recipient).

BOX 3 **Federal-aid project number:** The State assigned federal-aid project number, consistent with the format reported in FMIS.

BOX 4. **State project number or identification number:** The project number or ID, as assigned by the State of its funding recipient, consistent with the format reported in FMIS.

BOX 5. **Project location:** State where project occurs. If the project performed for Federal Lands, provide the FLH Division or Federal Land Managing Agency (FLMA) region.

BOX 6. **Contractor name and address:** The name and address of the contracting or consulting firm shall include the name, street address, city, state, and zip code.

BOX 7. **Contractor DUNS number:** The unique nine-digit number issued by Dun & Bradstreet. Followed by the optional 4 digit DUNS Plus number. Reported as "999999999.9999"

BOX 8. **Employment data:** The prime contractor or consultant will report the direct, on-the-project jobs for their workforce and the workforce of their sub-contractors active during the reporting month. These jobs data include employees actively engaged in projects who work on the jobsite, in the project office, in the home office or telework from a home or other alternative office location. This also includes any engineering personnel, inspectors, sampling and testing technicians, and lab technicians performing work directly in support of the ARRA funded project. This does not include material suppliers such as steel, culverts, guardrail, and tool suppliers. States should include in their reports all direct labor associated with the ARRA project such as design, construction, and inspection. The States reports should include their own project labor, including permanent, temporary, and contract project staff. States are asked not to include estimated indirect labor, such as material testing, material projection or estimated macro-economic impacts. FHWA will be estimating all indirect labor based on the information provided in this form along with other FHW data. The form request specifically:

a. **Subcontractor name:** The name of each subcontractor or sub-consultant that was active on the project for the reporting month.

b. **Employees:** The number of project employees on the contractor's or consultant's workforce that month, and the number of project employees for each of the active subcontractors for the reporting month. Do not include material suppliers.

c. **Hours:** The total hours on the specified project for all employees reported on the contractor's or consultant's project workforce that month, and the total hours for all project employees reported for each of the active subcontractors that month.

d. **Payroll:** The total dollar amount of wages paid by the contractor or consultant that month for employees on the specified project, and the total dollar amount of wages paid by each of the active subcontractors that month. Payroll only includes wages and does not include overhead or indirect costs.

BOX 9. **Prepared by:**

a. **Name:** Indicate the person responsible for preparation of the form. By completing the form the person certifies that they are knowledgeable of the hours worked and employment status for all the employees. Contractors, consultants, and their subs are responsible to maintain data to support the employment form and make it available to the State or Federal government should they request supporting materials.

b. **Date:** The date the employment form was completed. Reported as "mm/dd/yyyy." (e.g. "May 1, 2009" would be coded as "05/01/2009").

MONTHLY EMPLOYMENT REPORT

AMERICAN RECOVERY AND REINVESTMENT ACT

FHWA-1589 FORM

1. Report Month:(mm/yyyy):	2. Contracting Agency(NYSDOT for State Let Contracts)	
3. Federal-Aid Project Number	4. State Project Number or ID Number	5. Project location(State and County):

6. PRIME CONTRACTOR OR CONSULTANT NAME AND ADDRESS

Name:	
Address:	
City:	
Zip:	
State:	

7.Prime Contractor or Consultant DUNS Number:

8.Employment Data

	EMPLOYEES	HOURS	PAYROLL
Prime Contractor or Consultant Direct,On-project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Prime and Subcontractor Totals	0	0.0	$0.00

9. PREPARED BY CEO or Payroll official: Date:

Name:

Title:

FHWA-1589 Form(Rev.3-25),Modified by NYSDOT,04/14/2009

NOTE:Please do not modify this form in anyway as it may be used in its Electronic format for data summarization purposes.

MONTHLY EMPLOYMENT REPORT

AMERICAN RECOVERY AND REINVESTMENT ACT

FHWA-1589 FORM

1. Report Month:(mm/yyyy)	2. Contracting Agency(NYSDOT for State Let Contracts)	
3. Federal-Aid Project Number	4. State Project Number or ID Number	5. Project location(State and County):

6. PRIME CONTRACTOR OR CONSULTANT NAME AND ADDRESS

Name:	
Address:	
City:	
Zip:	
State:	

7.Prime Contractor or Consultant DUNS Number:

8.Employment Data

	EMPLOYEES	HOURS	PAYROLL
Prime Contractor or Consultant Direct,On-project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Subcontractor or Subconsultant Direct,On-Project Jobs			
Name:			
Prime and Subcontractor Totals	0	0.0	$0.00

9. PREPARED BY CEO or Payroll official:		Date:	
Name:			
Title:			

FHWA-1589 Form(Rev.3-25),Modified by NYSDOT,04/14/2009

NOTE:Please do not modify this form in anyway as it may be used in its Electronic format for data summarization purposes.

Sponsor: **Town of Riverhead**
Project Name: **Calverton Enterprise Park Rail Spur**
PIN: **093561**

RIDER A

American Recovery & Reinvestment Act of 2009, Vendor Obligations

1. Since this agreement contains ARRA stimulus funds, the vendor will post any jobs that it creates or seeks to fill as a result of the stimulus funding. Vendors will post through the New York State Department of Labor (http://labor.state.ny.us), notwithstanding any other posting they might make. Any advertisements posted by the vendor for positions pursuant to this contract must indicate that the position is funded with stimulus funds. The Department may waive the requirements of this section at its discretion.

2. The vendor will maintain detailed records of its expenditure of ARRA Stimulus Funds in connection with this agreement and submit reports as requested by the State of New York. The State of New York as the recipient of funds under the ARRA is subject to quarterly reporting requirements and oversight by federal agency inspectors. Additional reports are required under this agreement (See Special Note- "ARRA Reporting & Recordkeeping Requirements" and attachments).

3. The vendor is also responsible for holding all sub grantees to the above reporting requirements.

4. Agreement Funding

a. State General Fund Dollars	$0
b. Federal Fund Dollars	$0
c. ARRA Stimulus Dollars	$4,800,000
d. Other Fund Dollars (local)	$0
Agreement Total	$4,800,000

ECONOMIC RECOVERY PROJECTS
MUNICIPAL/SPONSOR RESOLUTION
RESOLUTION NUMBER: 1095

Adopted

WHEREAS, The NYS DOT Calverton Industrial Enterprise Park Freight Rail Access Rehabilitation (Pin #093561) Economic Recovery Project(s) (hereinafter the "the Projects") in the Town of Riverhead, in Suffolk County, (hereinafter "the Municipality/Sponsor") is (are) eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 100% Federal funds and 0% non-federal funds.

NOW, THERFORE, the Municipal/Sponsor Board duly convened does hereby:

RESOLVE, that the Municipal/Sponsor Board hereby approves the above Projects; and it is hereby further

RESOLVED, that the Municipality/Sponsor agrees to advance the Projects through: (Check only one of the following boxes):

☒ 1) The Municipality/Sponsor's resources and agrees that the Municipal/Sponsor Board hereby authorizes the Municipality/Sponsor to pay in the first instance the full federal and non-federal costs of any and all phase(s) or portions thereof and it is further hereby appropriates from capital fund [or pursuant to N/A] the funds necessary to complete the Project(s) including all phase(s) or portions thereof

-OR-

☐ 2) NYSDOT resources and agrees that the Municipal/Sponsor Board hereby authorizes the Municipality/Sponsor to pay in the first instance the full non-federal costs of any and all phase(s) or portions thereof and hereby appropriates from _____ [or pursuant to _____] the funds necessary to complete the Project(s) including all phase(s) or portions thereof; and it is further

RESOLVED, that the Municipal/Sponsor Board makes a 100% commitment of the federal and non-federal share (if any) of the costs of Construction/Construction Inspection phase(s) of work for the Project(s) or portions thereof, with the federal share of such costs to be applied by the New York State Department of Transportation (hereinafter "NYSDOT") pursuant to the State/Local Agreement and it is hereby further

RESOLVED, that the sum of $4,800,731 is hereby appropriated from the capital fund and make available to cover the cost of participation in the above phases(s) of the Project(s); and hereby appropriates from this capital fund [or pursuant to _____] the funds necessary to complete the Project(s) including all phase(s) or portions thereof it is further

RESOLVED, that upon completion of construction of the Projects, or a fully usable portion thereof, the Municipality/Sponsor agrees to maintain the Project(s), or fully usable portion thereof, at their sole cost and expense; and it is hereby further

RESOLVED, that in the event the full federal and non-federal share of the Projects exceeds the amount appropriated above, the Municipal/Sponsor Board shall convene as soon as possible to appropriate said excess amount immediately; and it is hereby further

RESOLVED, that the Supervisor of the Town of Riverhead is hereby authorized to execute all necessary Agreements or certifications on behalf of the Municipality/Sponsor, (subject to the Municipal/Sponsor Attorney's approval as to form and content), with NYSDOT in connection with the advancement or approval of the Projects identified in the State/Local Agreement; and providing for the administration of the Projects and the municipality/sponsor's first instance funding of the federal and non-federal share of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and it is further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of the

Department of Transportation by attaching it to any necessary Agreement in connection with the Project(s); and it is further

RESOLVED, that this Resolution shall take effect immediately.

(Name & TitleBarbara Blass, Councilwoman) moved the adoption of the resolution. Seconded by (Name & TitleJohn Dunleavy, Councilman). Upon roll call, adopted.

Clerk of theTown of Riverhead, Diane Wilhelm, County of Suffolk

I, hereby certify that I have compared the foregoing copy of a resolution with the original duly adopted by the above mentioned Municipality/Sponsor at a session held on the 1st day of December 2009 and that the same is a true copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of the saidTown of Riverhead, this 1st day ofDecember, 2009.

Diane M. Wilhelm Clerk

Gabrielsen THE VOTE
~~Buckley~~ ✓ yes ___ no Wooten ✓ yes ___ no
Dunleavy ✓ yes ___ no Blass ✓ yes ___ no
Cardinale ✓ yes ___ no
THE RESOLUTION ✓ WAS ___ WAS NOT
THEREFORE DULY ADOPTED

State of New York
County of Suffolk }ss.:
Town of Riverhead

This is to certify that I, the undersigned, Town Clerk of the Town of Riverhead, County of Suffolk, of New York, have compared the foregoing copy of a Resolution with the original now on file in this office and which was duly adopted on the 1st day of December, 2009, and that the same is a true and correct transcript of said Resolutionand of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and the offical seal of the Town of Riverhead, this 2nd day of December,2009.

Diane M. Wilhelm Town Clerk