FINAL

AIA® Document B102™ – 2007

cc'd TB, Clerk, Wayne Heather, comp, HC 10-9-09

Standard Form of Agreement Between Owner and Architect without a Predefined Scope of Architect's Services

AGREEMENT made as of the Twenty Third (23rd) day of September in the year Two Thousand Nine (2009).
(In words, indicate day, month and year)

BETWEEN the Owner (Municipality):
(Name, address and other information)

Town of Cicero
8236 S. Main Street
Cicero, NY 13039

and the Architect (Consultant):
(Name, address and other information)

Saratoga Associates Landscape Architects, Architects, Engineers, and Planners, P.C.
443 Broadway
Saratoga Springs, NY 12866

for the following Project:
(Name, location and detailed description)

This project is known as: The Brewerton Revitalization Project
PIN: 375495
Project Description: The project will include the design of upgrades to Riverfront Park and streetscape improvements to Brewerton Road (US Route 11) from Guy Young Road to the Oneida River Bridge. The **Consultant** will only prepare advance detailed plans for the Riverfront Park. Advance detailed plans for the US Route 11 streetscape improvements will be provided as part of a separate scope of services as funding becomes available.
Project Limits: US Route 11 approximately from Guy Young Road to Bennett Street. Riverfront Park includes current and future town property along the existing Oneida River docking area.
Municipality: Town of Cicero
County: Onondaga
Project Classification

This project is assumed to be a NEPA Class II action under USDOT Regulations, 23 CFR 771.
Classification under the New York State Environmental Quality Review Act (SEQRA) Part 617, Title 6 of the Official Compilation of Codes, Rules, and Regulations of New York State (6 NYCRR Part 617) is assumed to be Unlisted. It is assumed that an Environmental Impact Statement will not be required.

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 ARCHITECT'S RESPONSIBILITIES

§ 1.1 The Architect shall provide the following professional services:
(Describe the scope of the Architect's services)

The services outlined herewith are to follow the NYS DOT Standard Design Procedures for Locally Administered Federal Aid Projects. If additional funding sources should require an amended procedure, this scope of services will be modified and adapted by the **Consultant** for an additional fee.

1.1.1 Section 1

1.1.1.1 Project Familiarization

The **Municipality** will provide the **Consultant** with the following information:

- approved project initiation document (Initial Project Proposal or similar documentation) indicating project type, project location, cost estimate, schedule, and fund source(s).
- transportation needs.
- plans for future related transportation improvements or development in the area of the project.
- traffic data.
- accident records and history.
- record as-built plans.
- pavement history.
- anticipated permits and approvals (initial determination).
- terrain data requirements for design.
- available project studies and reports.
- other relevant documents pertaining to the project.

If the information listed is not in the Municipality's possession, the Municipality will provide appropriate contact information (if available) to assist the Consultant in gathering the necessary information.

The **Consultant** will become familiar with the project before starting any work. This includes a thorough review of all supplied project information and a site visit to become familiar with field conditions.

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1.1.1.2 Meetings

The **Consultant** will prepare for and attend up to twelve (12) meetings with the **Municipality's** Contract Administrator. Meetings may be held to:

- present, discuss, and receive direction on the progress and scheduling of work in this agreement.
- present, discuss, and receive direction on project specifics.
- discuss and resolve comments resulting from review of project documents, advisory agency review, and coordination with other agencies.
- preview visual aids for public meetings.
- manage subconsultants and subcontractors.

The **Consultant** will be responsible for the preparation of all meeting minutes; the minutes will be submitted to meeting attendees within one (1) week of the meeting date.

The **Consultant** anticipates that the meetings will occur at the Cicero Town Hall and will include time for travel and preparation.

Subconsultant (Bergmann Associates) anticipates attendance at three (3) meetings with the **Municipality**.

1.1.1.3 Cost and Progress Reporting

For the duration of this agreement, the **Consultant** will prepare and submit to the **Municipality** on a monthly basis a Progress Report in a format approved by the **Municipality**. The Progress Report must contain the "Progress Report Summary Sheet" (Appendix 6-H of the "Locally Administered Federal Aid Procedures Manual"). The beginning and ending dates defining the reporting period must correspond to the beginning and ending dates for billing periods, so that this reporting process can also serve to explain billing charges. (In cases where all work under this contract is officially suspended by the **Municipality**, this task will not be performed during the suspension period.)

1.1.1.4 Policy and Procedures

The design of this project will be progressed in accordance with the current version of the "Locally Administered Federal Aid Procedures Manual," including the latest updates.

1.1.1.5 Specifications

The project will be designed and constructed in accordance with the current edition of the NYSDOT Standard Specifications for Construction and Materials, including all applicable revisions.

1.1.1.6 Subconsultants

The **Consultant** will be responsible for:

- coordinating and scheduling work, including work to be performed by subconsultants.
- technical compatibility of a subconsultant's work with the prime consultant's and other subconsultants' work.
- the consultant will retain Bergmann Associates as a subconsultant under this agreement.

The Consultant will retain Bergmann Associates as a subconsultant under this Agreement.

1.1.1.7 Grant Applications

The **Consultant** will assist the **Municipality** in identifying potential funding sources to construct the project. The **Consultant** will support the **Municipality** in developing grant applications. Support may consist of supplying graphics produced as part of the design process. Additional supporting graphics can be created and a scope will be provided if necessary.

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1.1.2 Section 2 - Data Collection & Analysis

1.1.2.1 Design Survey

A. Ground Survey

The **Consultant** will provide terrain data required for design by means of a topographic field survey.

*The **Consultant** assumes:*

1. No hydrographic surveying will be required. Topographic survey will terminate at the edge of water.
2. Underground utility services will be based on record mapping and observable evidence located during the field survey.
3. Construction and property corner stake-out is not included under this task.
4. Access to private properties at time of field survey will not be hampered by property owners. A separate trip to survey private properties at a time other than the project survey is not included in this proposal.
5. The preparation of acquisition maps or easement documents is not included in this task. It is anticipated that NYS DOT will prepare these documents.
6. Access to the railroad will not be required. No railroad work permit or safety flagging personnel will be required.

E. Supplemental Survey

The **Consultant** will provide supplemental survey when needed for design purposes and to keep the survey and mapping current.

F. Standards

Survey will be done in accordance with the standards set forth in the "Locally Administered Federal Aid Procedures Manual" and in accordance with local standards described in Section 10 of this Task List.

1.1.2.2 Design Mapping

The **Consultant** will provide the following design mapping: 1"=40' scale mapping with 1-foot contour intervals.

The **Consultant** assumes that supplemental survey/mapping will not be necessary.

1.1.2.3 Determination of Existing Conditions

The **Consultant** will determine, obtain or provide all information needed to accurately describe in pertinent project documents the existing conditions within and adjacent to the project limits.

1.1.2.4 Accident Data and Analysis

The **Municipality** will provide accident records, if on file, for the last three years for roads within the project limits plus one-tenth of a mile immediately outside of the project limits.

The **Consultant** will also obtain available accident records from NYSDOT.

1.1.2.5 Future Plans for Roadway and Coordination with Other Projects

The **Municipality** will provide a brief written statement specifying whether or not plans exist to reconstruct or widen the highway segments immediately adjacent to the project within the next twenty years.

The **Municipality** will determine the influence, if any, of other existing or proposed projects or proposed developments in the vicinity of this project (e.g., whether a nearby highway widening would influence this project's design traffic volumes). The **Municipality** will provide all necessary information pertaining to the other projects or developments.

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The **Consultant** assumes that pavement replacement on US Route 11 will be completed by NYSDOT in October or November of 2009 and that an evaluation will not be necessary.

1.1.3 Section 3 - Preliminary Design

1.1.3.1 Preliminary Master Plan

The **Consultant** will develop one (1) schematic Master Plan of the project site that will also show potential connections with other portions of US Route 11, land on the east side of US Route 11, and potential opportunities for design coordination with the waterfront redevelopment initiatives in the Town of Hastings on the north side of Oneida River. Detailed information will not be provided as part of the Master Plan.

The Master Plan will be presented to the **Municipality** upon completion. Additional visualizations (e.g. cross-sections, perspective, sketches, etc) are not anticipated. The Master Plan will be presented on a 22"x34" format.

1.1.3.2 Design Criteria

The **Consultant** will identify the applicable design standards to be used for this project, and will establish project-specific design criteria in accordance with the "Locally Administered Federal Aid Procedures Manual."

The **Municipality** will approve the selected project design criteria and will obtain **NYSDOT** concurrence (either by a written submission or at a meeting). **Consultant** will assist the **MUNICIPALITY** and provide materials for the written submission to **NYSDOT**.

Based on the selected design criteria, the **Consultant** will identify all existing non-standard features that are within and immediately adjacent to the project limits. Non-standard features that correlate with a high accident rate will be noted.

1.1.3.3 Development of Alternatives

A. Selection of Design Alternative(s)

The **Consultant** will identify and make rudimentary evaluations of two (2) potential design alternative concepts that would meet the **Municipality's** defined project objectives. These evaluations are not to be carried beyond the point of establishing the feasibility of each concept as a design alternative; only those significant environmental and geometric design constraints that bear on the feasibility should be identified.

For each concept the **Consultant** will prepare rudimentary sketches of plan, profile, and typical section views, which show:

- on plan: proposed centerlines; pavement edges; curve radii and termini; and existing ROW limits.
- on profile: theoretical grade lines; critical clearances; vertical curve data; grades; and touchdown points.
- on typical section: lane, median, and shoulder widths; ditches; gutters; curbs; and side slopes.
- where necessary: important existing features.
- where pertaining to feasibility: significant environmental and geometric design constraints, labeled as such.
- location of site furniture, vegetation, and signage.

These sketches will include only the minimum information needed to select design alternatives to be studied in further detail.

The **Consultant** will identify one (1) furniture style for each alternative. Each design alternative for the park expansion will also include one (1) perspective rendering and examples of proposed amenities.

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Computer generated visual simulations will be provided to help convey the intent of the design alternatives. The consultant will provide simulations from up to three (3) locations. The simulations will be of a sufficient level of detail to provide a general representation of the design intent and photo realistic visualizations are not anticipated.

The **Consultant** will meet with the **Municipality** to discuss the concepts, using the sketches as discussion aids to describe the relative order-of-magnitude costs, advantages, disadvantages, and problem areas of each. From these concepts the **Municipality** will select one, or a combination of the two (2) alternative concepts.

Additional design alternatives are not part of this scope and will require a supplemental agreement.

Design alternative exhibits will be presented in 11"x17" and/or 22"x34" format as appropriate.

B. Detailed Evaluations of Alternative(s)

The **Consultant** will further evaluate each design alternative and the null alternative with specific engineering analyses and considerations. Analyses will be conceptual and limited to determining the relative suitability of each design alternative, and may include the following items, as applicable:

- design geometry, including the identification and comparison of alignment constraints and (where applicable) justification for retaining nonstandard design features, per the "Locally Administered Federal Aid Procedures Manual."
- environmental constraints and potential environmental impact mitigation measures (identified under 1.1.4 Section 4 tasks).
- traffic flow and safety considerations, including signs, signals, and level of service analysis for intersections.
- pavement.
- drainage.
- maintenance responsibility.
- maintenance and protection of traffic during construction.
- soil and foundation considerations.
- utilities.
- right-of-way acquisition requirements.
- conceptual landscaping (performed by a Registered Landscape Architect).
- accessibility for pedestrians, bicyclists and the disabled.
- lighting.
- construction cost factors.

The **Consultant** will prepare the following drawings for each design alternative analyzed:

- 1"=40' plans showing (as a minimum) stationed centerlines; roadway geometrics; major drainage features; construction limits; cut and fill limits; and proposed right-of-way acquisition lines.
- profiles, at a scale of 1"=40' horizontal and 1"=5' (maximum) vertical, showing (as a minimum) the vertical datum reference; significant elevations; existing ground line; theoretical grade line; grades; vertical curve data including sight distances; critical clearances at structures; centerline stations and equalities; construction limits; and superelevation data.
- typical sections showing (as a minimum) lane, median, and shoulder widths; ditches; gutters; curbs; and side slopes.

The **Consultant** will prepare the following preliminary drawings for the proposed park expansion:

- 1"=40' Layout and Materials Plan
- 1"=40' Grading and Drainage Plan
- 1"=40' Utility Plan
- 1"=40' Landscape Planting/Lighting Plan

1.1.3.4 Cost Estimates

The **Consultant** will develop, provide and maintain a cost estimate for each design alternative.

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The **Consultant** will update the estimate periodically and as necessary to incorporate significant design changes.

1.1.3.5 Preparation of Draft Design Approval Document

For this project the Design Approval Document (DAD) will be a Design Report / Environmental Assessment.

The **Municipality** will make all determinations not specifically assigned to the **Consultant,** which are needed to prepare the Draft DAD.

The **Consultant** will prepare a Draft DAD, which will include the results of analyses and/or studies performed in other Sections of this document. The DAD will be formatted as specified in the "Locally Administered Federal Aid Procedures Manual."

The **Consultant** will submit five (5) copies of the Draft DAD to the **Municipality** for review. A digital version of the Draft DAD will also be provided to the **Municipality** in PDF format. The **Municipality** will review the Draft DAD and provide the **Consultant** with review comments. The **Consultant** will revise the Draft DAD to incorporate the comments. The **Consultant** assumes two (2) rounds of review and comments by the **Municipality.**

For NEPA Class I and III projects only:

The **Municipality** will submit three (3) copies to the NYSDOT for preliminary NYSDOT and/or FHWA review.

The **Consultant** will revise the DAD to reflect NYSDOT and/or FHWA comments.

The **Municipality** will sign the cover sheet and submit three (3) copies of the revised report to the NYSDOT for signature by the FHWA.

1.1.3.6 Advisory Agency Review

The **Consultant** will provide the **Municipality** with five (5) copies of the signed Draft DAD for distribution to advisory agencies.

The **Municipality** will distribute the Draft DAD to the advisory agencies.

The **Consultant** will assist the **Municipality** in evaluating and preparing individual responses to the review comments received.

1.1.3.7 Public Information Meeting(s) and/or Public Hearing(s)

A. Public Information Meeting(s)

The **Consultant** will assist the **Municipality** at *two (2)* public information meeting(s) with advisory agencies, local officials, and citizens, at which the **Consultant** will provide visual aids and present a technical discussion of the alternatives.

The **Municipality** will arrange for the location of public information meeting(s). The **Consultant** will assist the **Municipality** with appropriate notification.

Visual aids for use in public information meetings will have been developed as part of the design process. The **Consultant** does not anticipate the completion of additional visual aids.

The **Consultant** anticipates that each meeting will require two (2) hours, plus travel and preparation time. All public meetings to occur at the Town of Cicero municipal offices or at the meeting room located at the Brewerton Fire Department.

B. Public Hearing(s)

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The **Municipality** will arrange for the date, time, and location of the public hearing. The **Consultant** will attend one (1) public hearing to assist the **Municipality.** The **Municipality** will be responsible for the cost of stenographic services.

The **Consultant** will assist the **Municipality** with appropriate notification, and will produce and modify an informational brochure for distribution. The **Consultant** anticipates that there will be one (1) round of review and comments. All brochure printing will be completed by the **Municipality**.

The **Consultant** will provide an outline for the public hearing presentation, and will provide visual aids and displays specifically for use at the public hearing.

All products prepared by the **Consultant** will be provided to the **Municipality** for review, discussion, and modification as necessary in advance of the public hearing. The **Consultant** anticipates that there will be one (1) round of review and comments.

The **Consultant** will attend the public hearing, which will be conducted by the **Municipality**. The **Consultant** will present the technical discussion of the design alternatives. The **Consultant** will assist the **Municipality** with erecting, managing, and dismantling informational displays and other visual aids.

The **Consultant** anticipates that there will be one (1) hearing. The **Consultant** anticipates that the hearing will require two (2) hours, plus travel and preparation time. The hearing will occur at the Town of Cicero municipal offices or at the meeting room located at the Brewerton Fire Department.

The **Consultant** will assist the **Municipality** in analyzing the public hearing transcript and written statements.

1.1.3.8 Preparation of Final Design Approval Document

The **Municipality** will obtain all necessary approvals and concurrences, and will publish all applicable legal notices.

The **Consultant** will prepare the Design Recommendation, and will modify the DAD to include the Design Recommendation, retitle the DAD in accordance with the "Locally Administered Federal Aid Procedures Manual," and update existing conditions and costs as necessary. The **Consultant** will incorporate changes resulting from the advisory agency review and all public information meetings and public hearings.

The **Consultant** will submit five (5) copies of the Final DAD to the **Municipality** for review. A digital version of the Final DAD will also be provided to the **Municipality** in PDF format. The **Municipality** will review the Final DAD and provide the **Consultant** with review comments. The **Consultant** will revise the Final DAD to incorporate the comments.

The **Consultant** assumes two (2) rounds of review and comments by the **Municipality**.

The **Municipality** will submit five (5) copies of the Final DAD to the NYSDOT for a Final Environmental Determination. The NYSDOT will make the determination or obtain FHWA's determination. If necessary, the NYSDOT will transmit the Final DAD to FHWA for final review and concurrence. The **Consultant** will again revise the Final DAD to incorporate changes (assumed minor) resulting from the NYSDOT and/or FHWA review.

The **Consultant** assumes one (1) round of review and comments by the NYSDOT and/or FHWA.

The **Municipality** will grant or obtain, from or through the NYSDOT, Design Approval.

1.1.4 Section 4 - Environmental

1.1.4.1 NEPA Classification

The **Consultant** will verify the anticipated NEPA Classification.

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The project is assumed to be a Class II action, therefore the **Consultant** will complete the NEPA Checklist, and forward the completed checklist to the **Municipality** for forwarding to the NYSDOT (with the Final DAD) for a final NEPA determination.

The Lead Agency for NEPA is the Federal Highway Administration (FHWA).

1.1.4.2 SEQRA Classification

The **Consultant** will assist the **Municipality** in complying with SEQRA (6 NYCRR Part 617). The **Municipality** is the Lead Agency. **Consultant** tasks include, but are not limited to:

- drafting letters to involved agencies to determine the lead agency.
- drafting Environmental Assessment Form(s).
- drafting a negative declaration.
- drafting a positive declaration.
- drafting notices.

The **Consultant** will document the results of SEQRA processing in the body of the Design Approval Document (DAD) and will include documentation of the final SEQRA determination in the Appendix of the DAD.

1.1.4.3 Screenings and Preliminary Investigations

The **Consultant** will screen and perform preliminary investigations to determine potential impacts resulting from the design alternative(s) for:

- **General Ecology and Endangered Species - Consultant** will perform site visits and coordination with the NYSDEC and U.S. Fish and Wildlife. It is assumed that no state or federally protected species occur on the project site.
- **Ground Water - Consultant** will review of County Soils Maps. It is assumed that no adverse impacts related to groundwater/soils will occur.
- **Surface Water** - It is assumed that no State or Federally regulated water bodies will be impacted.
- **State Wetlands - Consultant** will review NYSDEC Wetlands Maps. It is assumed that there are no State regulated wetlands that will be impacted.
- **Federal Jurisdictional Wetlands - Consultant** will review of National Wetland Inventory Maps and site visits. It is assumed that there are no Federally regulated wetlands that will be impacted.
- **Floodplains** - Based on preliminary review, portions of the project site may be within the 100 yr floodplain. Any additional evaluations on floodplain levels and potential impacts can be provided as a supplemental scope and fee.
- **Coastal Zone Management** - Not Required
- **Navigable Waterways** - It is assumed that no State or Federally regulated navigable water bodies will be impacted.
- **Historic Resources - Consultant** will contact New York State Office of Parks Recreation and Historic Preservation seeking confirmation that no adverse impacts on historic structures will occur. Any additional evaluations can be provided as a supplemental scope and fee.
- **Parks - Consultant** will evaluate Section 4(f) and 6(f): Sections 4(f) and 6(f) of the U.S. Department of Transportation Act of 1966 to confirm compliance. It is assumed that the proposed project will be in compliance with these sections.
- **Hazardous Waste - Consultant** assumes that a Phase 1 ESA will not be necessary in this scope of services. In the event a Phase 1 is necessary, an addition scope and fee can be provided.
- **Asbestos** - It is anticipated that **NYSDOT** will provide all required asbestos assessments and evaluations of structures associated with the proposed project. **Consultant** will provide general recommendations if required. It is assumed that, for the purposes of this proposal, evaluation of existing underground infrastructure (active or abandoned) will not be necessary. If, in the event an evaluation and abatement plan is required, the **Consultant** will provide a supplemental scope and fee.
- **Noise** - The necessity of conducting a traffic noise analysis will be investigated in accordance with the provisions and procedures of the policies stated in the Federal-Aid Policy Guide, Subchapter H, Part 772 (23 CFR 772) "Procedures for the Abatement of Highway Traffic Noise and Construction Noise."

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- **Air Quality** - The **Consultant** will reference EPA Air Quality Planning and Standards to determine the current air quality status for the project area. No impacts on air quality are anticipated.
- **Energy** - It is assumed that the project will not alter the vehicle miles traveled, the number of vehicle trips, vehicle operating speeds, or directly change land use development patterns and based upon the guidance provided in Section 1.B of the NYSDOT EPM, the project is not anticipated to require an energy analysis since the project will not significantly impact energy utilization.
- **Farmlands** - Existing Agricultural Districts maps will be reviewed. No impacts on farmland are anticipated.
- **Visual Impacts** - It is assumed that no adverse visual impacts will occur.
- **Critical Environmental Areas** - No adverse impacts on CEAs are anticipated.

Work will be performed, as detailed in the NYSDOT "Locally Administered Federal Aid Procedures Manual," to determine whether further detailed analysis or study is required. The results of these screenings and preliminary investigations will be summarized in the appropriate sections of the DAD.

1.1.4.4 Detailed Studies and Analyses

Based on the work performed in Section 4.03, the **Consultant** will determine whether detailed analysis or study is required. Prior to commencing such detailed study or analysis, the **Municipality** must concur with the **Consultant's** determination.

Detailed study or analysis work will be performed and documented as detailed in the NYSDOT "Locally Administered Federal Aid Procedures Manual." Results of the detailed study or analysis will be summarized in the appropriate section of the DAD.

Detailed study or analysis will be completed for the following:

- Surface Water - Preliminary Stormwater Pollution Prevention Plan (SWPPP)

If any additional detailed analysis is required for any of the items listed in Section 4.03, the **Consultant** will develop a scope and cost estimate in order to complete the analysis. The Consultant will initiate work upon execution of a supplemental agreement approved by the **Municipality**.

1.1.4.5 Permits and Approvals

The **Consultant** will obtain all applicable permit(s)and certification, including but not necessarily limited to:

- Article 24 Freshwater Wetlands Permit - Not Required
- Article 25 Tidal Wetlands Permit - Not Applicable
- FHWA Executive Order 11990 Wetlands Finding - Not Required
- U.S. Coast Guard Section 9 Permit - Not Required
- U.S. Army Corps of Engineers Section 10 Permit (Individual or Nationwide) - Not Applicable
- U.S. Army Corps of Engineers Section 404 Permit (Individual or Nationwide) - Not Applicable
- NYSDEC Section 401 Water Quality Certification - Not Applicable
- NYSDEC State Pollution Discharge Elimination System (SPDES) Permit - Required
- NYS Thruway Canal Corporation - Occupancy and Use Permit - Required. **Municipality** is responsible for obtaining permit. **Consultant** will provide supporting documents.

1.1.4.6 Environmental Hearing

The **Consultant** assumes that an Environmental Hearing will not be required. In the event that a hearing is required, the **Consultant** will provide the **Municipality** with a proposed scope and cost estimate that outlines the **Consultants** involvement.

1.1.5 Section 5 - Right-of-Way

1.1.5.1 Abstract Request Map and/or Title Search

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The Consultant will complete title searches (abstracts of title) for properties to be acquired by the **Municipality**.

The **Consultant** will complete title searches for two (2) properties.

1.1.5.2 Right-of-Way Survey

The **Consultant** will perform survey needed to accurately determine existing right-of-way limits and establish side property lines.

1.1.5.3 Right-of-Way Mapping

The **Consultant** will meet with the **Municipality** to discuss the types of right-of-way acquisitions required and the limits of acquisition lines.

The **Consultant** will prepare acquisition maps in accordance with the format provided by the **Municipality** or **New York State Department of Transportation (NYSDOT)**.

All right-of-way mapping will show English dimensions.

The **Consultant** assumes that additional surveying or map revisions/additions will not be required. In the event that they are determined necessary during the construction of the project, the **Consultant** will provide the **Municipality** with a supplemental cost estimate.

1.1.5.4 Right-of-Way Plan

The **Consultant** will prepare the Right-of-Way Plan(s) in accordance with the "Locally Administered Federal Aid Procedures Manual."

1.1.5.5 Right-of-Way Cost Estimates

The **Consultant** will obtain publicly available information as to the potential cost estimates for the right-of-way to be acquired by the **Municipality**. The **Consultant** will provide cost estimates on all alternatives being considered and will provide updated estimates, as necessary. The **Consultant** assumes that **NYSDOT** will provide actual appraisals (see Section 1.1.5.7) that will be used for the right-of-way to be acquired by the **Municipality**.

1.1.5.6 Public Hearings/Meetings

The **Consultant** will assist the **Municipality** at two (2) public hearings and/or informational meetings as may be required by the Eminent Domain Procedure Law.

The **Municipality** will arrange for the location of public information meeting(s). The **Consultant** will assist the **Municipality** with appropriate notification.

Visual aids for use in the meetings will have been developed as part of the design process. The **Consultant** does not anticipate the completion of additional visual aids.

The **Municipality** will be responsible for the cost of stenographic services, if required.

The **Consultant** anticipates that the public hearings and/or informational meetings will each require two (2) hours, plus travel and preparation time. All meetings to occur at the Town of Cicero municipal offices or at the meeting room located at the Brewerton Fire Department.

1.1.5.7 Property Appraisals

The **Consultant** assumes that the **NYSDOT** will prepare property appraisals, including estimating the damages caused by the acquisition(s), and will also prepare estimates for the rental of occupied property(ies).

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1.1.5.8 Appraisal Review

The **NYSDOT** will review appraisals prior to offers being made to the property owners.

1.1.5.9 Negotiations and Acquisition of Property

Property offers must not be made until authorization is granted to the **Municipality** by the **NYSDOT**.

The **Municipality** will negotiate with property owners for the acquisition of their property, including completion of all documents required by the **Municipality** in order to obtain the property.

1.1.5.10 Relocation Assistance

The **Municipality** will administer relocation assistance to displaced persons and businesses and oversee their relocation and vacating the property.

1.1.6 Section 6 - Detailed Design

1.1.6.1 Advance Detail Plans (ADP) For Riverfront Park

The **Consultant** will only prepare advance detailed plans for the Riverfront Park. Advance detailed plans for the US Route 11 streetscape improvements will be provided as part of a separate scope of services as funding becomes available.

The **Consultant** will develop the approved design alternative to the ADP stage. At this stage all plans, specifications, estimates and other associated materials will be **90%** complete.

As part of this task the **Consultant** will prepare up to three (3) typical cross sections.

Advance Detail Plans will be in accordance with the "Locally Administered Federal Aid Procedures Manual."

The **Consultant** will prepare and submit five (5) copies of the ADP's to the **Municipality** for review. The **Consultant** will modify the design to reflect the review of the ADP package.

Consultant assumes:

1. "un-metered" utility owned secondary power (120,240or 208VAC) is available along roadway for power points to supply power to lighting system.
2. no secondary distribution design involving primary voltage switching, primary to secondary transformers etc. is involved.
3. electrical utility underground maps are available if power distribution is underground.
4. one (1) round of review and comments by the **Municipality**.
5. road profiles and signal plans will not be required as part of the Advance Detail Plans. Changes to the road grade and signal locations are not anticipated. No utility upgrades or off-site expansions are assumed;
6. no gap studies are required;
7. **NYSDOT** or the **Municipality** will provide record as-built drawings of underground utilities;
8. no areaways exist within the project limits that will require special treatment or investigation;
9. no current drainage deficiencies exist within the roadway project limits

1.1.6.2 Contract Documents

For the purposes of this proposal, the **Consultant** will prepare a complete package of bid-ready contract documents for the Riverfront Park. The package will include:
- instructions to bidders.
- bid documents.
- contract language, including applicable federal provisions and prevailing wage rates.
- special notes.

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- specifications.
- plans.
- a list of supplemental information available to bidders (i.e., subsurface exploration logs, record as-built plans, etc.).

- other pertinent information.

The **Consultant** will submit the contract documents to the **Municipality** for approval. Upon approval, the **Municipality** will submit three (3) copies of the contract documents to the NYSDOT as described in the "Locally Administered Federal Aid Procedures Manual."

The **Consultant** will prepare contract documents for the US Route 11 streetscape improvements as part of a separate scope of services to be provided by the **Consultant** as funding becomes available. These services are not included in this Scope.

1.1.6.3 Cost Estimate

The **Consultant** will develop, provide, and maintain the construction cost estimate for the Riverfront Park project. The **Consultant** will update the estimate periodically and as necessary to incorporate significant design changes, and will develop and provide the final Engineer's Estimate, including all quantity computations.

1.1.6.4 Utilities

The **Consultant** will coordinate with affected utility companies to ensure the timely relocation of utility poles and appurtenances. The **Municipality** will prepare any necessary agreements with utility companies.

1.1.6.5 Information Transmittal

Upon completion of the contract documents, the **Consultant** will transmit to the **Municipality** all project information, including electronic files. The electronic information will be in the format requested by the **Municipality**.

1.1.7 Section 7 - Estimating & Technical Assumptions

1.1.7.1 Estimating Assumptions

The following assumptions have been made for estimating purposes:

Section 1
Estimate 17 meetings during the life of this agreement.
12 - General Meetings
2 - Public Information Meeting
3 - Public Hearings
Estimate six (6) cost and progress reporting periods will occur during the life of this agreement.

Section 2
Assume that GPS methods and equipment will (not) be used to establish local control points.
Estimate 0 accidents will require analysis.
Estimate 0 capacity analyses will be required.
Estimate 0 soil borings will be taken.

Section 3
Estimate two (2) concepts will be evaluated.
Estimate two (2) design alternative(s) will be analyzed in addition to the null alternative.
Estimate 3 cost estimate(s) plus 2 updates will be required.
Estimate 0 bridges will be rehabilitated.

Section 4
Estimate 2 permits will be required.

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NYSDEC State Pollution Discharge Elimination System (SPDES) Permit
NYS Thruway Canal Corporation - Occupancy and Use Permit

Section 5
Estimate 2 properties will require title searches. (Consultant Responsibility)
Estimate 1 ROW map will be required. (Consultant Responsibility)
Estimate 2 property acquisitions will be required. (Municipality/NYSDOT Responsibility)

Section 6
Estimate 1 cost estimate(s) plus updates will be required.
Estimate 0 bridges will be replaced and 0 will be rehabilitated.
Estimate 3 utility companies (Potentially electric, cable, and Telephone.) and 0 railroad agencies will be affected.

§ 1.2 This Agreement may be amended at any time with mutual agreement, in writing, per Exhibit A of the Owner Architect Agreement.

§ 1.3 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 1.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 1.5 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 1.6 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:
(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)
(Paragraphs deleted)

.1	Professional Liability	$2,000,000
.2	General Liability	$2,000,000
		$4,000,000 aggregate
.3	Workmen's Compensation	NYS Statutory Requirements
.4	Bodily Injury and Property Damage	$2,000,000
.5	Umbrella Liability	$4,000,000

ARTICLE 2 OWNER'S RESPONSIBILITIES

§ 2.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 2.2 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.
§ 2.3 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of consulting services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect

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requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 2.4 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 2.5 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 2.6 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 8.1.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

ARTICLE 3 COPYRIGHTS AND LICENSES

§ 3.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 3.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 3.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Sections 5.3 and 5.4, the license granted in this Section 3.3 shall terminate.

§ 3.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 3.3.1.

§ 3.4 Except for the licenses granted in this Article 3, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 3.5 Refer to additional conditions in Article 8.6 Transfer of Instruments of Service.

ARTICLE 4 INTENTIONALLY DELETED

(Paragraphs deleted)

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ARTICLE 5 TERMINATION OR SUSPENSION

§ 5.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any reasonable expenses incurred in the resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 5.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for reasonable expenses incurred in the resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 5.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 5.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 5.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 5.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 5.7.

§ 5.7 Termination Expenses shall be liquidated damages in the amount of Seven Hundred Fifty Dollars ($750.00) paid to the Architect.

§ 5.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 3 and Section 6.3.

ARTICLE 6 COMPENSATION

§ 6.1 The Owner shall compensate the Architect for services described in Section 1.1 as set forth below.
(Insert amount of, or basis for, compensation or indicate the exhibit or scope document in which compensation is provided for.)

Stipulated Sum of Two Hundred and Twenty Two Thousand Three Hundred Twenty Nine Dollars ($222,329.00) inclusive of reimbursable expenses.

If additional meetings are requested, in writing, the Owner will be billed based on the Architect's Personnel Charge Rates.

If additional copies of reports and/or drawings are requested , in writing, above and beyond those identified in Article 1, the Owner will be billed based on §6.2 Reimbursable Expenses.

The Architect will bill on a monthly basis based on the percentage of work completed plus reimbursable expenses.

§ 6.2 Reimbursable Expenses are in addition to compensation for the Architect's professional services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;

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.4 Printing, reproductions, plots, standard form documents;
.5 Postage, handling and delivery;
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
.7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
.8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
.9 All taxes levied on professional services and on reimbursable expenses;
.10 Site office expenses; and
.11 Other similar Project-related expenditures.

§ 6.2.1 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus an administrative fee of Fifteen Percent (15%) of the expenses incurred.

§ 6.3 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 5.5, or the Architect terminates this Agreement under Section 5.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of the Project as follows:

N/A

§ 6.4 PAYMENTS TO THE ARCHITECT

§ 6.4.1 An initial payment of Zero ($0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 6.4.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty One (31) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

1.0% Monthly

§ 6.4.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 6.4.4 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

§ 6.4.5 The term of the Agreement is Nine (9) months from the date of this Agreement. Should the project extend beyond this timeframe, the Architect reserves the right to negotiate additional services.

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 4.3.

§ 7.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 7.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

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§ 7.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 7.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 7.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. Refer also to Articles 8.3 Hazardous Materials Exclusion and 8.4 Pollution Exclusion.

§ 7.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 7.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

ARTICLE 8 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

§ 8.1 COST OF THE WORK

§ 8.1.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 8.1.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 2.6, 8.1.4, and 8.1.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 8.1.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 3.

§ 8.1.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

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§ 8.1.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 8.2 PERSONNEL CHARGE RATES

§ 8.2.1 Personnel Flat Hourly Rates are based on Direct Personnel Expenses plus a variable multiplier for overhead and profit as approved by the Architect's Board of Directors.

§ 8.2.2 The flat hourly rate structure for the Architect's professional services shall be as follows:

Consultant's rates shall be per Exhibit B times a multiplier of 2.9.

Subconsultant's rates shall be per Exhibit C times a multiplier of 2.7.

§ 8.3 HAZARDOUS MATERIALS EXCLUSION

§ 8.3.1 Services provided by the Architect and Architect's Consultant(s) do not include, and the Architect and his Consultant(s) shall not be responsible for the following whether by the Architect or undertaken on the Architect's behalf including:

- **.1** searching for, detecting of, testing for, or advising of the existence of any proportion of hazardous materials;
- **.2** specification of any product, material or process containing hazardous materials;
- **.3** performance of professional services in the abatement, replacement or removal of a product, material or process containing hazardous materials; and
- **.4** installation, modification, abatement, replacement or removal of a product, material or process containing hazardous materials;

§ 8.3.2 Hazardous material(s) shall be defined as any solid, liquid, or gaseous material known or suspected to be hazardous to the health, welfare and safety of any person. Hazardous materials may include, but not be limited to, such material(s) as asbestos, asbestos containing products, materials or processes, poly-chlorinated biphenyls (PCB), lead, or other hazardous materials.

§ 8.3.3 In the event hazardous materials are suspected or found to exist at the project site(s), the Owner will take appropriate steps to have the suspected material tested, and any such material(s) properly removed, cleaned up, or otherwise abated.

§ 8.3.4 The Owner shall not hold the Architect or his Consultants responsible for any consequences of project delays which result from the presence of hazardous materials.

§ 8.4 POLLUTION EXCLUSION

§ 8.4.1 Services provided by the Architect and Consultant(s) do not include, and the Architect and Consultant(s) shall not be responsible for:

- **.1** actual, alleged or threatened discharge, dispersal, release or escape of pollutants; or
- **.2** any governmental or regulatory directive or request to control, test for, monitor, clean-up, remove, treat, contain, detoxify, or neutralize "pollutants."

§ 8.4.2 This exclusion does not apply to professional services performed by the Architect or his consultants in the design and construction of treatment systems for:

- **.1** domestic sewage, including those receiving industrial waste, but only if such industrial waste is pre-treated in accordance with applicable governmental and regulatory standards;
- **.2** potable water; and
- **.3** storm water.

§ 8.4.3 "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed. Storm water means water from rain, hail, snow or sleet.

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§ 8.4.4 In the event pollution occurs at the project site(s), the owner will take appropriate steps to have the "pollutants" controlled, tested, monitored, cleaned up, removed, contained, treated, detoxified or neutralized.

§ 8.4.5 The Owner shall not hold the Architect or Consultant(s) responsible for any consequences of project delays which may result due to pollution events.

§ 8.5 INTENTIONALLY DELETED

§ 8.6 TRANSFER OF INSTRUMENTS OF PROFESSIONAL SERVICE

§ 8.6.1 The Owner acknowledges that the Architect's drawings, plans, reports, specifications, computerized materials and other similar documents are instruments of professional services and not products.

§ 8.6.2 Upon full payment of the Architect's compensation for the project, any transfer to the Owner of instruments of service or design including any electronic copy of the instruments of service may be made under the following conditions.

- **.1** the explicit instruments delivered as a matter of this agreement shall be itemized.
- **.2** the Architect shall not be deprived of the right to retain copies of the instruments of service nor the right to reuse information contained in them in the normal course of the Architect's practice.
- **.3** the Architect does not forego its copyright to the original material prepared, but rather permits the Owner to utilize it in the manner and for the purpose it was prepared;
- **.4** any instruments not a matter of this agreement shall be itemized and acknowledged in writing by the Owner.

§ 8.6.3 The Owner recognizes that the instruments of service shall not be reused for any new application to the current usage or to a new project or proposal without an evaluation of the documents in relation to applicable laws, regulations, codes and standards by a legally competent Agent of the Owner.

§ 8.6.4 The Owner also acknowledges that modifications to or reuse of these instruments of service by the Owner's or Owner's Agents without the assistance of the Architect carry inherent risks relative to intrinsic or explicit characteristics of instruments of service.

§ 8.6.5 The Owner accepts that in the case of any discrepancy between electronic material and hard copy or any variance introduced in the electronic information from any source, the hard copy in the possession of the Architect controls.

§ 8.6.6 The Owner and Architect understand that the Owner's future use of the instruments of service is at the Owner's risk and the Owner shall indemnify and hold harmless the Architect for any claims that may arise out of such use.

§ 8.7 LIMITING CONDITIONS

§ 8.7.1 The Architect states the following nature and limitations exist on material and opinions prepared on the Owner's behalf and the Owner will fully disclose pertinent information and expectations necessary for the Architect to undertake the subject services. The Architect states and the Owner understands that such information may have significant impact on the opinions of the Architect and the Owner's expectations. Further both parties understand that there are usually differences between projected and actual results because events and circumstances frequently do not occur as expected and these differences may be material. The Architect does not express any form of assurance of achievability on any pricing or absorption estimates or reasonableness of the underlying assumptions. The use of the reports, letters or memos prepared by the Architect is limited for internal analysis and should not be relied upon solely by the Owner or any other party in making an investment decision.

§ 8.8 PUBLICATION RIGHTS

§ 8.8.1 The Architect reserves the right to submit photographic, graphic and electronic instruments of service produced under this agreement for use in the normal course of the Architect's practice including:

- **.1** promotional related efforts;
- **.2** publication submissions:
- **.3** professional seminars and conferences
- **.4** professional publication award entries.

§ 8.8.2 Unless otherwise stated, the Architect has the Owner's consent to disclose the name of the Owner, project,

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approximate project cost/budget and other pertinent project information.

§ 8.8.3 The Owner shall identify the Architect as the Design Consultant whenever the Owner uses materials prepared by the Architect to promote the project, for use in any publications, or any other use related to the project for which the Architect was either the Prime consultant or subconsultant.

ARTICLE 9 SCOPE OF THE AGREEMENT

§ 10.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

(Paragraph deleted)

§ 9.2 This Agreement is comprised of the following documents listed below:

.1 AIA Document B102–2007, Standard Form Agreement Between Owner and Architect

.2 Exhibit A – Sample Amendment to Owner/Architect Agreement

(Paragraphs deleted)

.3 Exhibit B – Consultant's Rate Schedule

.4 Exhibit C – Subconsultant's Rate Schedule

This Agreement entered into as of the day and year first written above.

OWNER	**ARCHITECT**
(Signature)	*(Signature)*
Chester A. Dudzinski, Supervisor Town of Cicero	Gregg E. Urspring, PE, Secretary & COO
CHESTER A DUDZINSKI SUPERVISOR	
(Printed name and title)	*(Printed name and title)*

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Exhibit A

SARATOGA
ASSOCIATES

Amendment # ____

OWNER/ARCHITECT AGREEMENT

Between _____
(Owner)

and

Saratoga Associates Landscape Architects, Architects, Engineers and Planners, P.C.
(Architect)

The following additional services are hereby authorized as an amendment to the Architect/Owner Agreement (Agreement) referenced herein. This amendment shall be incorporated into the referenced Agreement in its entirety and all the terms and conditions of the Agreement are incorporated into this amendment. No terms or conditions of the Agreement are modified except as expressly set forth herein and/or by other amendments to the same Agreement.

PROJECT NAME/PROJECT NUMBER: _____

AUTHORIZATION DATE _____

ARCHITECT/OWNER AGREEMENT AND DATE _____

AMENDED OR ADDITIONAL SERVICES:

FEE METHOD (and amount, if applicable). _____

ADDITIONAL RETAINER DUE WITH AUTHORIZATION _____

OTHER CONDITIONS (if applicable) _____

THE ARCHITECT will commence these services upon receipt of this executed service amendment.

SARATOGA ASSOCIATES
Landscape Architects, Architects, Engineers, and Planners, P.C.

Owner Name

Name, Title

Name, Title

Date

Date

Sample

Exhibit B

Exhibit A, Page 1
Salary Schedule

Saratoga Associates

JOB TITLE	ASCE (A) OR NICET (N) GRADE	AVERAGE HOURLY RATES PRESENT (06/09)	PROJECTED (06/10)	MAX. HOURLY RATES 2009	2010	2011	OVERTIME CATEGORY
Principal	IX (A)	$62.50	$64.38	$62.50	$64.38	$66.31	A
Project Manager	VII (A)	$45.70	$47.07	$45.70	$47.07	$48.48	A
Sr. Architect (Licensed)	VI (A)	$35.95	$37.03	$35.95	$37.03	$38.14	A
Project Architect (Licensed)	VII (A)	$38.70	$39.86	$38.70	$39.86	$41.06	A
Junior/Intern Architect	V (A)	$25.00	$25.75	$25.00	$25.75	$26.52	A
Sr. Engineer (Licensed)/Desig	VIII (A)	$45.68	$47.05	$45.68	$47.05	$48.46	A
Project Engineer (Licensed)	VII (A)	$41.40	$42.64	$41.40	$42.64	$43.92	A
Intern Engineer	II (A)	$24.55	$25.29	$24.55	$25.29	$26.05	A
Landscape Architect (License	V (A)	$40.87	$42.10	$40.87	$42.10	$43.36	A
Designer	IV (A)	$31.05	$31.98	$31.05	$31.98	$32.94	A
Jr. Designer (CADD Draftspe	II (A)	$22.20	$22.87	$22.20	$22.87	$23.55	A
Sr. GIS	V (A)	$38.50	$39.66	$38.50	$39.66	$40.84	A
Jr. GIS	II (A)	$25.25	$26.01	$25.25	$26.01	$26.79	A
Sr. Planner	VI (A)	$42.35	$43.62	$42.35	$43.62	$44.93	A
Jr. Planner	II (A)	$27.20	$28.02	$27.20	$28.02	$28.86	A
Clerical	NA	$22.00	$22.66	$22.00	$22.66	$23.34	C

NOTES:
(1) Hourly rates shall not exceed those shown above or the current NYSDOT Maximum Allowable, as described in Exhibit E, whichever is less.
(2) Written approval from the Regional Construction Engineer must be received by the Consultant before using titles shown in the Salary Schedule but not shown in the Staffing Table.

OVERTIME POLICY

Overtime is reimbursable by the categories below only if the firm has a policy to pay overtime compensation.

Category A - No overtime compensation.
Category B - Overtime compensated at straight time rate.
Category C - Overtime compensated at straight time rate x 1.50.

Overtime applies to hours worked in excess of the normal working hours of 8 hours per day.

Exhibit C

			1.0933	1.00	1.04	1.04	1.04	

Exhibit B, Page 2
Salary Schedule

Bergmann Associates

JOB TITLE	ASCE (A) OR NICET (N) GRADE	AVERAGE HOURLY RATES PRESENT DATE March, 2008	PROJECTED DATE July, 2010	MAXIMUM HOURLY RATES 2008	2009	2010	2011	OVERTIME CATEGORY
Principal	IX (A)	$72.00	$73.50	$72.00	$74.88	$77.88	$80.99	A
Project Manager	VIII (A)	64.13	70.11	72.00	74.88	77.88	80.99	A
Sr. Project Engineer	VII (A)	48.08	52.57	56.47	58.73	61.08	63.52	A
Project Engineer	VI (A)	46.02	50.31	46.46	48.32	50.25	52.26	B
Senior Engineer	V (A)	41.53	45.40	43.57	45.31	47.13	49.01	B
Engineer	IV (A)	37.57	41.08	42.15	43.84	45.59	47.41	B
Design Engineer	III (A)	32.51	35.54	40.75	42.38	44.08	45.84	B
Junior Engineer	I/II (A)	24.78	27.09	30.39	31.61	32.87	34.18	B
Senior Designer/CADD	IV (N)	40.15	43.90	44.04	45.80	47.63	49.54	C
Sr. Engineering Technician	IV (N)	32.33	35.35	35.46	36.88	38.35	39.89	C
Sr. Engineering Technician	III (N)	29.43	32.18	32.32	33.61	34.96	36.36	C
Engineering Technician	II (N)	24.22	26.48	28.03	29.15	30.32	31.53	C
Engineering Technician	I (N)	18.76	20.51	23.59	24.53	25.51	26.54	C
Trainee	NA	14.45	15.80	15.50	16.12	16.76	17.44	C
Technical Typist	NA	18.52	20.25	22.64	23.55	24.49	25.47	C
Sr. Land Surveyor - Licensed	IV (N)	39.06	42.70	40.40	42.02	43.70	45.44	C
Party Chief (Office) Licensed	IV (N)	39.06	42.70	40.40	42.02	43.70	45.44	C
Party Chief (Office) Unlicensed	III (N)	22.40	24.49	25.49	26.51	27.57	28.67	C
Instrument Person (Office)	II (N)	21.21	23.19	22.75	23.66	24.61	25.59	C
Sr. Construction Inspector	IV (N)	38.90	42.53	50.00	52.00	54.08	56.24	C
Sr. Construction Inspector	III (N)	30.16	32.97	31.50	32.76	34.07	35.43	C
Construction Inspector	II (N)	24.25	26.51	25.00	26.00	27.04	28.12	C
Construction Inspector	I (N)	17.75	19.41	18.75	19.50	20.28	21.09	C
Sr. Land Surveyor - Licensed	IV (N)	39.06	42.70	40.40	42.02	43.70	45.44	C
Party Chief (Office) Licensed	IV (N)	39.06	42.70	40.40	42.02	43.70	45.44	C
Party Chief (Office) Unlicensed	III (N)	22.40	24.49	25.49	26.51	27.57	28.67	C
Instrument Person (Office)	II (N)	21.21	23.19	22.75	23.66	24.61	25.59	C

NOTES:
Hourly rates shall not exceed those shown above or the current NYSDOT Maximum Allowable, as described in Exhibit E of the original agreement.

OVERTIME POLICY

Overtime is reimbursable by the categories below only if the firm has a policy to pay overtime compensation.

Category A - No overtime compensation
Category B - overtime compensated at straight time rate.
Category C - overtime compensated at straight time rate x 1.50
Overtime applies to hours worked in excess of the normal working hours of 8 hours per day

This chart is provided as an example only. It is the consultant's responsibility to apply the appropriate rates in effect at the time the work takes place. In order to calculate prevailing wage benefits, the consultant should use the employee's actual wage and the prevailing wage rate in effect at the time and location the services are performed.

The easiest way to accurately calculate wage and benefits is to use this table on our website:
https://www.nysdot.gov/portal/page/portal/main/business-center/consultants/consultants-repository/descmb.xls

Prevailing wage and supplemental benefit schedules are available on the Department of Labor website.

County(ies):
PREVAILING WAGE RATES - The difference between the required prevailing wage rate and the individual's actual hourly rate, if the individual's rate is lower, is considered a direct cost:
For prevailing wages, the prevailing wage overtime policy will apply

		Prevailing Rate	Projected Prevailing Rate	Normal Rate	Total
Party Chief (Office) Licensed	IV (N)	$29.82	$32.60	$42.70	$0.00
Party Chief (Office) Unlicensed	III (N)	$29.82	$32.60	24.49	$8.11
Instrument Person (Office)	II (N)	$27.05	$29.57	23.19	$6.38

SUPPLEMENTAL BENEFITS are also considered direct costs. The net benefit is the difference between required amounts and deductions made through existing plans (overhead):

		Prevailing Benefit	Projected Prev. Benefit	Normal Rate	Difference	Wage Adjustment	Total
Party Chief (Office) Licensed	IV (N)	$16.30	$17.82	$6.45	$11.37	($10.10)	$1.27
Party Chief (Office) Unlicensed	III (N)	$16.30	$17.82	$5.93	$11.89	$0.00	$11.89
Instrument Person (Office)	II (N)	$16.30	$17.82	$5.93	$11.89	$0.00	$11.89

NOTES:
Prevailing rate and supplemental benefit differences are subject to audit.