



CITY OF ONEIDA
MEETING OF THE COMMON COUNCIL
109 N. MAIN ST., ONEIDA, NY 13421

AGENDA

Date:	January 2, 2024	Presiding:	Rick Rossi, Mayor
Time:	6:30 p.m.	Clerk:	Sandy LaPera, City Clerk
Location:	Common Council Chambers	Meeting Type:	Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/>

Call to Order/Pledge of Allegiance/Roll Call

DEPUTY MAYOR NOMINATION/VOTE:

OLD BUSINESS:

Approval of the Minutes: December 29, 2023-Year-end Closeout Meeting

Approval of Warrant: 1

Item	Title	Facilitator
1.	ORGANIZATIONAL RESOLUTION: designate Common Council Meeting times; designate official newspaper; name banks where City funds will be retained and approve Crime Protection Policy for Public Entities limits	MAYOR
2.	VOUCHER COMMITTEE: appoint Voucher Committee members pursuant to Section 5.22B of the Oneida City Charter	MAYOR
3.	SCRAP METAL: authorize the DPW, Water Department, WWTP, Fire, Police, and Recreation Departments to sell scrap metal at fair market value for the remainder of 2024	LAPERA
4.	CITY HISTORIAN AGREEMENT: authorize the Mayor to sign an agreement with Ariel Bero as the Oneida City Historian as per the 2024 City of Oneida Budget	MAYOR
5.	STANDARD WORKDAY RESOLUTION: establish the Standard Workday for elected and appointed officials for the purpose of determining days worked reportable to the NYS and Local Employees Retirement System	LAPERA
6.	DESIGNATE POLLING PLACES (2024): designate the polling places in the City of Oneida for 2024: Wards 1 and 2 at St. Paul's United Methodist Church, 551 Sayles St. and Wards 3, 4, 5 and 6 at the Kallet Civic Center, 159 Main St.	LAPERA

Item	Title	Facilitator
7.	BOND RESOLUTION: authorize design costs in connection with various DRI Capital Projects in and for the City of Oneida, Madison County, NY, at a maximum estimated cost of \$700,000 bonds of said City to pay costs thereof (Roll Call Vote)	WELLS
8.	DRI PROJECTS-DESIGN PHASE: approve to move forward with the Design Phase of DRI Projects: American Youth Soccer Organization (AYSO) Fields; Downtown Infrastructure and Streetscape Improvements and Upgrade Facilities at Veterans Memorial Park and authorize the City Manager to sign any and all documents pertaining to said projects	ROWE/WELLS

NEW BUSINESS:

PUBLIC COMMENT: Limited to 3 Minutes

**MINUTES OF THE COMMON COUNCIL
REGULAR MEETING
JANUARY 2, 2024**

A meeting of the Common Council of the City of Oneida, NY was held on the second day of January 2024 at 6:30 pm at the City of Oneida Common Council Chambers, 109 N. Main Street, Oneida NY 13421.

The meeting was called to order by Mayor Rick Rossi.

<u>Attendees</u>	Present	Absent	Arrived Late
Mayor Rossi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
City Manager Selby	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Szczerba	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Laureti	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Hitchings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Winchell	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Pagano	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Simchik	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____

Also Present

City Attorney Nadine Bell	<input type="checkbox"/>	Fire Chief Scott Jones	<input type="checkbox"/>
City Clerk Sandy LaPera	<input type="checkbox"/>	Police Chief Steve Lowell	<input type="checkbox"/>
City Engineer Jeff Rowe	<input type="checkbox"/>	Public Safety Com. Dave Jones	<input type="checkbox"/>
Codes Director Bob Burnett	<input type="checkbox"/>	Other _____	<input type="checkbox"/>
Comptroller Lee Ann Wells	<input type="checkbox"/>	Other _____	<input type="checkbox"/>

Call to Order/Pledge of Allegiance/Roll Call

DEPUTY MAYOR NOMINATION/VOTE:

OLD BUSINESS:

APPROVAL OF MINUTES

Moved by Councilor
Seconded by Councilor

RESOLVED, that the minutes of the Special meeting of December 29, 2023, are hereby approved as presented.

Ayes:

Nays:

MOTION CARRIED

APPROVAL OF WARRANT

Moved by Councilor
Seconded by Councilor

RESOLVED, that Warrant No. 1, checks and ACH payments in the amount of \$312,576.87 as audited by the Voucher Committee are hereby approved for payment in the usual manner at the discretion of the Comptroller.

Ayes:

Nays:

MOTION CARRIED

WARRANT	1
DATE:	January 2, 2024

FUND		PAYMENT NUMBER (S)	AMOUNT
Capital			
DRI Fund	031		
Fund	027		
ARPA Fund	030		
Current Funds		73499-73504	\$ 312,448.88
ACH			\$ 127.99

WARRANT #1 TOTAL			\$ 312,576.87
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Oneida, NY

Expense Approval Report

By Fund

Payment Dates 1/2/2024 - 1/2/2024

Vendor Name	Payment Number	Post Date	Description (Item)	Account Number	Amount
Fund: 001 - GENERAL FUND					
HAR-ROB FIRE APPARATUS SE	73500	12/20/2023	Badges	001.3410.0407.0000	168.00
MITCHELL DRYER JR	73502	01/02/2024	JANUARY 2024	001.3410.0401.0000	3,123.42
HUMANA INS CO OF NY	73501	01/02/2024	JANUARY 2024	001.9060.0805.0000	23,678.38
MITCHELL DRYER JR	73502	01/02/2024	JANUARY 2024	001.9060.0805.0000	-150.80
EXCELLUS BLUECROSS BLUESH	73499	01/02/2024	JANUARY 2024	001.9060.0805.0000	233,870.95
ONEIDA HEALTHCARE CENTER	73503	12/20/2023	PHARMACEUTICALS	001.3410.0300.0000	300.20
ONEIDA HEALTHCARE CENTER	73503	12/20/2023	PHarmacy costs	001.3410.0300.0000	500.00
ONEIDA HEALTHCARE CENTER	73503	12/20/2023	Pharmacy	001.3410.0300.0000	500.00
QUADIENT LEASING USA INC	73504	01/02/2024	JAN 17- APR 16	001.1620.0406.0000	344.85
Fund 001 - GENERAL FUND Total:					262,335.00
Fund: 002 - WATER					
HUMANA INS CO OF NY	73501	01/02/2024	JANUARY 2024	002.9060.0805.0000	2,202.64
EXCELLUS BLUECROSS BLUESH	73499	01/02/2024	JANUARY 2024	002.9060.0805.0000	23,408.81
Fund 002 - WATER Total:					25,611.45
Fund: 003 - SEWER					
HUMANA INS CO OF NY	73501	01/02/2024	JANUARY 2024	003.9060.0805.0000	550.66
EXCELLUS BLUECROSS BLUESH	73499	01/02/2024	JANUARY 2024	003.9060.0805.0000	23,951.77
Fund 003 - SEWER Total:					24,502.43
Grand Total:					312,448.88

Report Summary

Fund Summary

Fund	Payment Amount
001 - GENERAL FUND	262,335.00
002 - WATER	25,611.45
003 - SEWER	24,502.43
Grand Total:	312,448.88

Account Summary

Account Number	Account Name	Payment Amount
001.1620.0406.0000	COPIER CONTRACTS	344.85
001.3410.0300.0000	MEDICAL SUPPLIES	1,300.20
001.3410.0401.0000	207A	3,123.42
001.3410.0407.0000	CHIEF'S EXPENSE	168.00
001.9060.0805.0000	HEALTH INSURANCE	257,398.53
002.9060.0805.0000	HEALTH INSURANCE	25,611.45
003.9060.0805.0000	HEALTH INSURANCE	24,502.43
Grand Total:		312,448.88

Project Account Summary

Project Account Key	Payment Amount
None	312,448.88
Grand Total:	312,448.88



Onelda, NY

Expense Approval Report

By Fund

Payment Dates 12/28/2023 - 1/2/2024

Vendor Name	Payment Number	Post Date	Description (Item)	Account Number	Amount
Fund: 001 - GENERAL FUND AMAZON WEB SERVICES, LLC.	DFT0004341	12/27/2023	Small Cabinet	001.3120.0300.0000	127.99
				Fund 001 - GENERAL FUND Total:	127.99
				Grand Total:	127.99

Report Summary

Fund Summary

Fund	Payment Amount
001 - GENERAL FUND	127.99
Grand Total:	127.99

Account Summary

Account Number	Account Name	Payment Amount
001.3120.0300.0000	MAT SUPPLIES	127.99
	Grand Total:	127.99

Project Account Summary

Project Account Key	Payment Amount
None	127.99
Grand Total:	127.99

1. **ORGANIZATIONAL RESOLUTION**

RESOLUTION 24-

Moved by Councilor
Seconded by Councilor

RESOLVED, that the Organizational Resolution for 2024 consisting of the following is hereby approved:

1. Regular meetings for the City of Oneida for the year 2024 shall be held in Common Council Chambers, Oneida Municipal Building, 109 N. Main Street, Oneida, New York at 6:30 p.m. on the first and third Tuesday of each month, and if any of said Tuesdays shall fall on a holiday, then in such event, the Common Council shall agree on a date to reschedule.
2. The Oneida Dispatch is hereby designated as the official newspaper in the City of Oneida.
3. The City of Oneida funds for year 2024 shall be kept and retained in the following banks:
 - NBT Bank, Oneida, NY-special capital accounts and other current accounts
 - Community Bank, Oneida, NY-special reserve accounts and other current accounts
4. There shall be a Crime Protection Policy for Public Entities, which includes a "Blanket Employee Dishonesty Per Loss", with a per occurrence limit of \$500,000 and a \$500 per occurrence deductible.

Ayes:

Nays:

MOTION CARRIED

2. VOUCHER COMMITTEES

RESOLUTION 24-

Moved by Councilor
Seconded by Councilor

RESOLVED, that pursuant to Section 5.22B of the City Charter, Voucher Committees shall be as follows:

FIRST COUNCIL MEETING: Councilor Laureti and Councilor Hitchings
SECOND COUNCIL MEETING: Councilor Szczerba and Councilor Winchell

Ayes:

Nays:

MOTION CARRIED

3. **SCRAP METAL SALE**

RESOLUTION 24-

Moved by Councilor
Seconded by Councilor

RESOLVED, to authorize the Department of Public Works, Wastewater Treatment Plant, Water Department, Fire Department, Police Department and Recreation Department to sell scrap metal at a fair market price, as accumulated, for the remainder of 2024.

Ayes:

Nays:

MOTION CARRIED

4. **AGREEMENT-CITY HISTORIAN**

RESOLUTION 24-

Moved by Councilor
Seconded by Councilor

RESOLVED, to authorize the Mayor to sign an agreement with Ariel Bero, 369 Lenox Ave., Oneida, NY 13421, as City Historian, as per the 2024 City of Oneida Budget.

Ayes:

Nays:

MOTION CARRIED

CITY HISTORIAN AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2024, between the City of Oneida, a municipal corporation, organized and existing by virtue of the laws of the State of New York and having its principal office at City Hall, 109 North Main Street, Oneida, New York, 13421 (the "City") and Ariel Bero, (the "City Historian") who resides at 369 Lenox Ave., Oneida, New York 13421.

WHEREAS, pursuant to Section 57.07 of the Arts and Cultural Affairs Law of New York State, the Mayor of the City of Oneida is required to appoint a local historian; **and**

WHEREAS, pursuant to Section 57.07 of the Arts and Cultural Affairs Law, it is the responsibility of the City Historian to,

“promote the establishment and improvement of programs for the management and preservation of local government records with enduring value for historical research; encourage the coordinated collection and preservation of nongovernmental historical records by libraries, historical societies, and other repositories; and carry out and actively encourage research in such records in order to add to the knowledge, understanding and appreciation of the community’s history;” **and**

WHEREAS, to satisfy the statutory obligation to appoint a City Historian, the Mayor has identified Ariel Bero, an Oneida City resident, known for her historical knowledge of the City of Oneida, as an appropriate and well qualified individual, to serve in such capacity; **and**

WHEREAS, the parties are desirous of entering into an agreement whereby the Mayor shall appoint Ariel Bero as the City Historian, and the City shall compensate Ms. Bero for serving as such.

NOW, THEREFORE, it is hereby agreed that upon the appointment of Ariel Bero to the position of Oneida City Historian by the Mayor of Oneida, Ms. Bero shall serve as a resource on the history of the City of Oneida in compliance with Section 57.07 of the Arts and Cultural Affairs Law of New York State for calendar year 2023; **be it further**

AGREED, the City shall pay Ariel Bero as the City Historian, a stipend in the amount of \$500.00, such stipend to be paid in quarterly installments.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and the day and year first above written.

CITY HISTORIAN

BY: _____

ARIEL BERO

CITY OF ONEIDA

BY: _____

RICK ROSSI, MAYOR

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

On the ____ day of _____ in the year 2024 before me, the undersigned, a Notary Public in and for said State, personally appeared **Ariel Bero**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

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

On the ____ day of _____ in the year 2024 before me, the undersigned, a Notary Public in and for said State, personally appeared **Rick Rossi**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

5. **STANDARD WORKDAY RESOLUTION FOR STATE COMPTROLLER**

RESOLUTION 24-

Moved by Councilor
Seconded by Councilor

WHEREAS, New York State Rules and Regulations require the reporting of time worked for members of the New York State Local Retirement System; and

WHEREAS, the Office of the New York State Comptroller has requested that the City of Oneida adopt a resolution establishing the Standard Workday for elected and appointed officials for the purpose of determining days worked reportable to the New York State and Local Retirement System; now therefore be it

RESOLVED, that the Common Council hereby establishes the following as a Standard Workday for elected and appointed officials for the purpose of determining days worked reportable to the New York State and Local Employees Retirement System:

ELECTED OFFICIALS

Mayor

Five-day work week, 7-hour day maximum

Common Councilor

Five-day work week, 6-hour day maximum

City Chamberlain

Five-day work week, 7-hour day maximum

City Manager-Appointed

Five-day work week, 8-hour day maximum

ALL OTHER APPOINTED OFFICIALS

Five-day work week, 8-hour day maximum

Ayes:

Nays:

MOTION CARRIED

6. DESIGNATE POLLING PLACES (2024)

Resolution 24-

Moved by Councilor

Seconded by Councilor

RESOLVED, that the polling places in the City of Oneida for 2024 are hereby designated as follows:

WARD 1-1	St. Paul's United Methodist Church-551 Sayles St.
WARD 2-1	St. Paul's United Methodist Church-551 Sayles St.
WARD 3-1	Kallet Civic Center. 159 Main St.
WARD 4-1	Kallet Civic Center. 159 Main St.
WARD 5-1	Kallet Civic Center. 159 Main St.
WARD 6-1	Kallet Civic Center. 159 Main St.

Ayes:

Nays:

MOTION CARRIED

7. **BOND RESOLUTION-DRI CAPITAL PROJECTS**

RESOLUTION 24-

Moved by Councilor
Seconded by Councilor

A RESOLUTION AUTHORIZING DESIGN COSTS IN CONNECTION WITH VARIOUS DRI CAPITAL PROJECTS, IN AND FOR THE CITY OF ONEIDA, MADISON COUNTY, NEW YORK, AT A MAXIMUM ESTIMATED COST OF \$700,000, AND AUTHORIZING THE ISSUANCE OF \$700,000 BONDS OF SAID CITY TO PAY COSTS THEREOF.

BE IT RESOLVED by the affirmative vote of not less than two thirds of the total voting strength of the Common Council of the City of Oneida, Madison County, New York, as follows:

Section 1. Design costs in connection with various DRI capital projects, in and for the City of Oneida, Madison County, New York, is hereby authorized at a maximum estimated cost of \$700,000.

Section 2. The plan for the financing of such maximum estimated cost is by the issuance of \$700,000 bonds of said City hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law; provided, however, that the amount of bonds to be issued shall be reduced to the extent of grants received in connection therewith.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is five years, pursuant to subdivision 62 of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. The faith and credit of said City of Oneida, Madison County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. To the extent not paid from other sources, there shall annually be levied on all the taxable real property of said City, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the City Comptroller, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Comptroller, consistent with the provisions of the Local Finance Law.

Section 6. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the City Comptroller, the chief fiscal officer of such City. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the City Comptroller shall determine consistent with the provisions of the Local Finance Law.

Section 7. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are

reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9. This resolution, which takes effect immediately upon the final passage thereof, shall be published in summary form in the official newspaper of said City for such purpose, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Mayor Richard Rossi	VOTING	_____
Councilor James Szczerba	VOTING	_____
Councilor Steve Laureti	VOTING	_____
Councilor Andrea Hitchings	VOTING	_____
Councilor Robert Winchell	VOTING	_____
Councilor William Pagano	VOTING	_____
Councilor Thomas Simchik	VOTING	_____

8. **DRI PROJECTS-DESIGN PHASE**

RESOLUTION 24-

Moved by Councilor
Seconded by Councilor

RESOLVED, to approve to move forward with the Design Phase of the following DRI Projects and to authorize the City Manager to sign any and all documents related to these projects.

- American Youth Soccer Organization (AYSO) Fields
- Downtown Infrastructure and Streetscape Improvements
- Upgrade Facilities at Veterans Memorial Park

Ayes:

Nays:

MOTION CARRIED

November 27, 2023

Mr. Jeffrey Rowe, City Engineer
City of Oneida
109 N. Main Street
Oneida, NY 13421

Re: Engineering Services Proposal
American Youth Soccer Organization (AYSO) Fields
30% Design Documents

Dear Mr. Rowe:

C&S is pleased to provide this proposal to provide engineering services for the proposed improvements to three vacant parcels along Wilson Street in the City of Oneida. At this time, the City has requested a proposal to provide 30% design documents for the project, identified in the DRI as Project #3-Develop AYSO Soccer Fields.

Project Understanding

The City of Oneida would like to make improvements to an underutilized greenspace along Wilson Street and transform the vacant land into youth soccer fields. The local chapter of the American Youth Soccer Organization (AYSO), Region 840, currently does not have a home field. By reimaging this vacant public space, the City of Oneida will be able to provide the Region 840 team with a home field, attract visitors into the community, and provide a local recreation opportunity for everyone in the community.

Specific desired improvements have been identified in the DRI, include the following:

- *Construction of three recreational soccer fields for use by the Region 840 AYSO.*
- *Construction of a gravel parking lot to accommodate visitors and allow for food truck parking.*
- *Coordination with FEMA to determine the feasibility of adding permanent fencing and / or a small enclosed building.*
- *Maintain the floodplain for future flood events.*

Project Approach

Study Initiation and Kickoff Meeting

Our design professionals will meet with City officials and AYSO Region 840 officials for an in-person meeting to review the project scope, discuss coordination efforts with FEMA, obtain any available data or materials, review the overall goals of the project, and perform an initial site walk.

Topographic Survey

C&S will team with a licensed survey firm, GdB Geospatial, to obtain topographic survey of the project area. The team will collect topographic data, including one-foot contours, spot elevations, and the size and location of all existing above-ground and underground utilities, existing features, buildings and right-of-way boundaries. Highway boundaries will be established using deed research and property lines will be placed to tax map accuracy. GdB Geospatial has an experienced and highly qualified survey team and is also a New York State registered Women-owned Business Enterprise (WBE), and Disadvantaged Business Enterprise (DBE).

FEMA Coordination

After the kick-off meeting, C&S will reach out to FEMA to discuss the feasibility of placing structures on the site and / or enclosed fencing. C&S will synthesize the information provided by FEMA and review options with the City and the AYSO. C&S will then proceed with the creation of a design concept based on the preferred option.

Creation of Design Concepts

C&S will work with the AYSO Region 840 officials to layout three youth soccer fields and conceptual landscaping improvements. Once preliminary layouts are confirmed, an overlay of the proposed design will be placed on the topographic survey base map. In addition to conceptual design plans, a design narrative and report along with an order of magnitude construction cost estimate will be provided.

Assumptions/Exclusions

1. Up to date boundary and topographic survey will be provided by our subconsultant, GdB Geospatial.
2. Detailed engineering analysis (structural, architectural, MEP) are not included. Only visual assessments will be conducted.
3. Detailed construction cost estimates are not included.
4. There are no environmental impediments (wetlands, endangered species, archeology, underground storage tanks, etc.) to the development of the property as intended and any related studies are not included.
5. SEQR efforts are not included.
6. Attend one meeting with the city.

Fee(s): (Lump Sum)

Topographic Survey	\$11,000
Meetings, Concept Plans, Phase Report	\$20,000
Total Lump Sum Fee:	\$31,000

Fee to be invoiced monthly based on percent complete.

The attached terms and conditions will become a part of this agreement when signed by you. We look forward to working with you.

Sincerely,

C&S ENGINEERS, INC.



Emma Jo Aversa, P.E.
Project Engineer

Accepted by:

Date:

EXHIBIT "A"
TERMS & CONDITIONS (Design Phase)

These Terms and Conditions govern the performance by or through Engineer of the Scope of Services set forth in the letter part of this Agreement. Capitalized terms used herein, unless otherwise defined, shall have the meanings ascribed thereto in the letter and/or scope of services. Owner and Engineer agree as follows:

1.01 Basic Agreement

Engineer shall provide, or cause to be provided, the services set forth in the letter part of this Agreement, and Owner shall pay Engineer for such Services as set forth in Section 2.01.

2.01 Payment Procedures

A. *Terms of Payment.* Refer to the letter part of this Agreement between Owner and Engineer for the method of payment to Engineer.

B. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner.

C. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal. In addition, Owner agrees to pay all expenses incurred by Engineer as a result of Owner's failure to fulfill its obligations under this Agreement, including but not limited to, costs, disbursements, and attorney's fees.

D. *Payment upon Termination.* In the event of termination of Engineer's services by Owner, Engineer will be paid for Basic Services rendered to date of termination in accordance with the method of payment defined in the letter part of this Agreement except that under the lump sum method, the adjusted fee shall be determined by proportioning the stipulated amount to reflect the percentage of completion of the Project, as mutually agreed to by Owner and Engineer. Engineer will also be paid for additional services rendered to date of termination in accordance with the method of payment defined in the letter part of this Agreement.

3.01 Additional Services

A. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth in the letter part of this Agreement.

B. Owner shall pay Engineer for such additional services as follows: For additional services of Engineer's employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any.

4.01 Owner's Responsibilities

Owner shall perform the following in a timely manner so as not to delay the services of Engineer under this Agreement. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all reports, data and other information furnished pursuant to this paragraph. Engineer may use such reports, data and information in performing or furnishing services under this Agreement.

A. Designate in writing a person to act as Owner's representative with respect to the services to be rendered under this

Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define Owner's policies and decisions with respect to Engineer's services for the Project. Engineer shall not rely on directions from anyone outside the scope of that person's authority as set forth in written delegations. Directions and decisions made by the Owner's representatives shall be binding on the Owner.

B. Provide all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints; space, capacity, and performance requirements; flexibility and expandability; and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications.

C. Assist Engineer by placing at Engineer's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

D. Furnish to Engineer, as required for performance of Engineer's Basic Services (except to the extent provided otherwise in Section 1.01) the following:

1. Data prepared by or services of others including, without limitation, borings, probings, subsurface explorations and hydrographic surveys at or contiguous to the site, laboratory tests and inspections of samples, materials, and equipment;
2. Appropriate professional interpretations of all of the foregoing;
3. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the site and adjacent areas;
4. Property, boundary, easement, right-of-way, topographic and utility surveys;
5. Property descriptions;
6. Zoning, deed and other land use restrictions; and
7. Other special data or consultations not covered in Section 3.01; all of which Engineer may use and rely upon in performing services under this Agreement.

E. Arrange for access to and make all provisions for Engineer and any necessary equipment to enter upon public and private property as required for Engineer to objectively and independently perform services under this Agreement.

F. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by Engineer, obtain advice of an attorney, insurance counselor and other consultants as Owner deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the service of Engineer.

G. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

H. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as Owner may require or Engineer may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as Owner may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.

EXHIBIT "A"
TERMS & CONDITIONS (Design Phase)

I. If more than one prime contract is to be awarded for construction, materials, equipment and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

J. Furnish to Engineer data or estimated figures as to Owner's anticipated costs for services to be provided by others for Owner (such as services pursuant to paragraphs G through I inclusive) so that Engineer may make the necessary findings to support opinions of probable Total Project Costs.

K. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of any constituent of concern or any development that affects the scope or timing of Engineer's services, or any defect or non-conformance in the work of any Contractor.

L. Place and pay for advertisement for Bids in appropriate publications.

M. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.

N. Furnish, or direct Engineer to provide, Additional Services as stipulated in Section 3.01.

O. Except as provided in paragraph N, bear all costs incident to compliance with the requirements of this Section 4.01.

5.01 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.
 - b. By Engineer:
 - 1) upon seven days written notice if Engineer believes that Engineer is being requested by Owner to furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
 - 3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under paragraph 5.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by either party effective upon the receipt of notice by the other party.

B. The terminating party under paragraphs 5.01.A.1 or 5.01.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

6.01 Controlling Law

This Agreement is to be governed by the law of the state in which the project is located without regard to any conflict of laws provisions, which may apply the laws of other jurisdictions.

7.01 Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 7.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

8.01 General Considerations

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. Owner agrees that if Engineer is not employed to provide professional services during the Bidding (if the work is put out for bids) and the Construction Phases of the Project, Engineer will not be responsible for, and Owner shall indemnify, hold Engineer (and Engineer's professional associates and consultants) harmless, and defend Engineer from all claims, damages, losses and expenses including attorneys' fees

EXHIBIT "A"
TERMS & CONDITIONS (Design Phase)

arising out of, or resulting from any interpretation, clarification, substitution acceptance, shop drawing or sample approval or modification of such documentation issued or carried out by Owner or others. Nothing contained in this paragraph shall be construed to release Engineer (or Engineer's professional associates or consultants) from liability for failure to perform in accordance with professional standards any duty or responsibility which Engineer has undertaken or assumed under this Agreement.

C. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Such documents are not intended or represented to be suitable for reuse by Owner or others in extensions of the facility beyond that now contemplated or on any other facility. Any reuse by Owner or others without specific written verification or adaptation by Engineer for the specific purpose intended will be at user's sole risk and without liability or legal exposure to Engineer, or to Engineer's independent professional associates or consultants, and Owner shall indemnify and hold harmless Engineer and Engineer's independent professional associates and consultants from all claims, losses, damages of any kind or nature, judgments, and expenses (including, but not limited to, reasonable attorney's fees and any costs), arising out of or resulting therefrom. Any such verification and adaptation will entitle Engineer to further compensation at rate to be agreed upon by Engineer and Owner.

D. **To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's (including Engineer's employees, officers, directors, agents and insurers, partners, and consultants) total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater. The Owner may negotiate with the Engineer in the event the Owner wishes to change the total liability described herein but acknowledges that any change may result in an additional fee. This additional fee is in consideration of the greater risk involved in performing work for which there is an increase or no limitation of liability.**

E. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

F. Owner acknowledges that:

(i) Engineer is not recommending any action to Owner or other obligated person hereunder that would cause Consultant to be considered a municipal advisor for purposes of the Securities and Exchange Commission Registration of Municipal Advisors Rule, 78 Fed. Reg. 67468 (2013);

(ii) Engineer does not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4) to Owner or other obligated person with respect to the information and material contained in this Agreement or any Project deliverable; and

(iii) Owner or other obligated person should discuss any

information and material contained in this Agreement or Project deliverable with any and all internal or external advisors and experts that Owner or other obligated person deems appropriate before acting on this information or material.

9.01 Period of Service

A. The specific schedule of services is more specifically described in the letter part of this Agreement or an exhibit thereto. The term of this agreement commences upon the acceptance of this Agreement (including all exhibits) by owner and terminates upon completion of the services described in the letter part of this Agreement.

B. The provisions of this Section 9.01 and the various rates of compensation for Engineer's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Construction Phase. If execution of this Agreement and authorization to proceed with the Bidding or Negotiating Phase is delayed beyond the date and time frame established in the letter part of the agreement, or if Engineer's services are delayed or suspended for more than three (3) months by Owner or for reasons beyond Engineer's control, all rates, measures and amounts of compensation provided herein shall be subject to equitable adjustment.

C. If Owner has requested significant modifications or changes in the general scope, extent or character of the Project, the time of performance of Engineer's services shall be adjusted equitably.

D. Any delay in or failure of performance of any party to this Agreement shall not constitute a default under this Agreement nor give rise to any claim for damage, if and to the extent such delay or failure is caused by occurrences or events beyond the control of the party affected, including but not limited to, acts of God; expropriation or confiscation of facilities or compliance with any order or request of government authority, affecting to a degree not presently existing, the supply, availability, or use of personnel or equipment; strikes; flood blizzard, labor unrest, riot; or any cause the affected party is unable to prevent or foresee with reasonable diligence. A party who is prevented from performing for any reason shall immediately notify the other in writing of the reason for the nonperformance and the anticipated extent of any delay and its efforts to minimize the extent of delay and resume performance under this Agreement.

10.01 Opinions of Probable Cost

Since Engineer has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, Engineer's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but Engineer cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by Engineer. If prior to the Bidding or Negotiating Phase Owner wishes greater assurance as to Total Project or Construction Costs, Owner shall employ an independent cost estimator.

11.01 Dispute Resolution

A. Owner and Engineer agree to negotiate in good faith for a period of thirty (30) days from the date of notice of disputes between them as to the execution, meaning of, or performance under the terms of this Agreement prior to exercising their right under paragraph 11.01(B) below. The thirty-day period may be extended upon mutual agreement of the parties.

EXHIBIT "A"
TERMS & CONDITIONS (Design Phase)

B. If any dispute cannot be resolved pursuant to paragraph 11.01(A) and only if mutually agreed by Owner and Engineer, said dispute and all unsettled claims, counterclaims and other matters in question between them arising out of or relating to the execution, meaning of, or performance under the terms of this Agreement or the breach thereof ("disputes") shall be submitted to mediation by a mediator, to be selected by the parties jointly, prior to initiating a legal action against the other, unless initiating mediation would irrevocably prejudice one of the parties. It is the intention of the parties that any agreement reached at mediation become binding upon them. The cost of mediation shall be shared equally between the parties.

Owner shall be named as additional insured with respect to the coverages set forth in (b) and (c) above, on a primary & non-contributory basis.

C. This Section 11.01 shall survive any termination or cancellation of this Agreement.

12.01 Total Agreement/ Severability

This Agreement (consisting of the letter part of this Agreement, Exhibit "A" and any additional exhibits referenced in the letter part of this Agreement), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument. Any provision or part of this Agreement held by a court of law to be invalid or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, who agree that the Agreement shall be reformed to replace such stricken provision or part therefore with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

13.01 Notice

Any notice required by the terms of this Agreement to be given by one party to another shall be in writing, and shall be deemed to have been duly given (a) on the date of service, if served personally on the party to whom notice is to be given, or (b) on the third day after mailing, if mailed to the party to whom notice is to be given by first-class certified mail, postage prepaid, return receipt requested, at the addresses and to the persons set forth in the letter part of this Agreement. Either party hereto may change its address for notice purposes by giving notice to the other party as prescribed by this paragraph 13.01. For purposes of this notice provision, failure or refusal to accept receipt of notice shall constitute notice nonetheless.

14.01 Insurance

A. The following types and amounts of insurance shall be procured and maintained by the Engineer throughout the duration of the Project:

a. **Worker's Compensation Insurance** in the amounts required by law to provide protection for employees of the Engineer in the event of job-related injuries.

b. **Comprehensive General Liability Insurance, including broad form and contractual liability endorsement**, having a limit of \$1,000,000 per occurrence and \$1,000,000 Aggregate for personal injury and property damage.

c. **Automobile Liability Insurance** having a combined single limit of \$1,000,000 for bodily injury and property damage per occurrence/policy aggregate.

d. **Professional Liability or Errors and Omissions Insurance** having limits of \$1,000,000 per claim and \$1,000,000 aggregate liability.

November 27, 2023

Mr. Jeffrey Rowe, City Engineer
City of Oneida
109 N. Main Street
Oneida, NY 13421

Re: Engineering Services Proposal
Downtown Infrastructure and Streetscape Improvements
30% Design Documents

Dear Mr. Rowe:

C&S is pleased to provide this proposal to provide engineering services for the proposed infrastructure and streetscape improvements to the downtown area in the City of Oneida. At this time, the City has requested a proposal to provide 30% design documents for the project, identified in the DRI as Project #5-Improve Downtown Infrastructure and Streetscaping

Project Understanding

The City of Oneida is looking to develop, design and implement comprehensive streetscape and pavement improvements for four street corridors in the downtown section of the City, as well as bicycle improvements on a fifth corridor. As a targeted investment location in the most recent Downtown Revitalization Initiative (DRI) grant Strategic Investment Plan, these improvements are an important and high visibility component of the city's planning objectives. Locations identified for streetscape improvements include:

- Main Street (Lenox Ave to Elm Street)
- Broad Street (Oneida Street to Farrier Avenue)
- Farrier Avenue (Main Street to Broad Street)
- Vanderbilt Avenue (Main Street to Broad Street)
- Bicycle signage and road striping to be added to Sconondoa Street

In Oneida, like many Upstate New York municipalities, there is an emerging shift in the public perspective: viewing roadways as a primary passageway for moving vehicles quickly and efficiently to recognizing the need to provide safe and accessible multimodal accommodations for various modes of transportation and for users of all abilities.

The goals of this project include, but are not limited to:

- Enhance downtown aesthetics and vitality.
- Improve walkability and placemaking within the downtown area.
- Upgrade pedestrian accessibility and improving pedestrian safety.
- Integrate green infrastructure for stormwater management in the project corridors.

To meet the objectives of the DRI, a complete streets approach has been identified as a means to enhance the economic vitality of the area while also improving aesthetics, enhancing functionality for all modes of transportation, including bicycles, pedestrians and public transit, and providing environmental benefits as well. In the next section we outline our team's approach to assist the City in meeting implementing these plans.

Project Approach

Study Initiation and Kickoff Meeting

Our design professionals will meet with City officials for an in-person meeting to review the project scope, establish meeting dates, transfer any available data or materials, and review the overall goals of the project and relevant parts of the DRI application to carry forward. Specific important criteria influencing the design will be discussed including the City's maintenance capabilities for green infrastructure, requirements for maintaining the character of the historical district, and any on-going or future utility work that the City has identified.

After the kick-off meeting, an on-site visit to the project streets will be completed to inventory existing features such as pavement and sidewalk widths, intersections, traffic signals, lighting, pavement markings, accessibility, drainage structures, plantings, parking availability, local businesses, and other site conditions related to the local transportation network as needed.

Data Gathering and Existing Conditions Assessment

C&S will document the existing conditions of the area from the site visit through base drawings. The focus of the data collection effort will be on identifying needs for safety and accessibility for all modes of transportation. The Project Team will perform an assessment of issues, needs, opportunities, and constraints. Orthoimagery will be used as a base to layout existing features from each street. Existing features include approximate building faces, sidewalks, curb, on-street parking, drainage structures, and pavement markings. The limits of the proposed design will be from existing building face to building face. It is assumed that the existing highway boundary for each street is at the front of building face or back of sidewalk. It is our understanding that the project area is listed in the National Register of Historic Places. This will be important information affecting the conceptual design so that the character of these locations is maintained.

Topographic Survey

C&S will team with a licensed survey firm, GdB Geospatial, to obtain topographic survey of the project area. The team will collect topographic data, including one-foot contours, spot elevations, and the size and location of all existing above-ground and underground utilities, existing features, buildings and right-of-way boundaries. Highway boundaries will be established using deed research and property lines will be placed to tax map accuracy. GdB Geospatial has an experienced and highly qualified survey team and is also a New York State registered Women-owned Business Enterprise (WBE), and Disadvantaged Business Enterprise (DBE).

Creation of Design Concepts

An overlay of the proposed design will be placed on the orthoimagery base. The design will use a complete-streets approach while incorporating sustainability best practices. Specific elements incorporated will be those desired by the City as discussed in the kick-off meeting. One design concept will be created for each street. The design concept will be laid out in plan view with a color rendering for each feature. Streetscape elements will be shown on the plan including benches, lighting, traffic signals, plantings, and street trees. Green infrastructure types and locations will also be identified on the plan drawings. One typical section for each street will be created for each street. Typical sections will include the pavement width, travel lanes, landscaping, snow storage and utility strips, and ornamental features such as site furniture. Our understanding is that lighting has recently been upgraded in the project area and will not be required to be upgraded as part of the design concept. Pavement width includes parking and bike lanes, on-street parking, curb, sidewalk, and bicycle/shared-use paths. Our understanding is the bicycle/shared use paths are to be incorporated into the Broad Street portion of the project only.

Design Concept Review and Public Information Meeting(s)

C&S will meet with City officials at an in-person meeting to present the preliminary concept plans and cross-sections and obtain feedback from the City. The feedback provided will be incorporated into the final concept plans and typical sections. At this stage in the project, a Public Information Meeting can be held to present the conceptual design to the public and answer questions and solicit feedback. C&S has used this approach on many projects, including the Oneida Rail-Trail, as a public outreach tool. In addition, a project website can be created to provide the public with on-going updates on the progress of the project.

Assumptions/Exclusions

1. Up to date boundary and topographic survey will be provided by our subconsultant, GdB Geospatial.
2. Detailed engineering analysis (structural, architectural, MEP) are not included. Only visual assessments will be conducted.
3. Detailed construction cost estimates are not included.
4. There are no environmental impediments (wetlands, endangered species, archeology, underground storage tanks, etc.) to the development of the property as intended and any related studies are not included.
5. SEQR efforts are not included.
6. Attend one meeting with the city and conduct one Public Information Meeting.

Fee(s): (Lump Sum)

Topographic Survey	\$36,900
Conceptual Design Phase Services	\$99,500
Total Lump Sum Fee:	\$136,400

Fee to be invoiced monthly based on percent complete.

The attached terms and conditions will become a part of this agreement when signed by you. We look forward to working with you.

Sincerely,

C&S ENGINEERS, INC.



Michael Gridley, R.L.A..
Senior Project Landscape Architect

Accepted by:

Date:

EXHIBIT "A"
TERMS & CONDITIONS (Design Phase)

These Terms and Conditions govern the performance by or through Engineer of the Scope of Services set forth in the letter part of this Agreement. Capitalized terms used herein, unless otherwise defined, shall have the meanings ascribed thereto in the letter and/or scope of services. Owner and Engineer agree as follows:

1.01 Basic Agreement

Engineer shall provide, or cause to be provided, the services set forth in the letter part of this Agreement, and Owner shall pay Engineer for such Services as set forth in Section 2.01.

2.01 Payment Procedures

A. *Terms of Payment.* Refer to the letter part of this Agreement between Owner and Engineer for the method of payment to Engineer.

B. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner.

C. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal. In addition, Owner agrees to pay all expenses incurred by Engineer as a result of Owner's failure to fulfill its obligations under this Agreement, including but not limited to, costs, disbursements, and attorney's fees.

D. *Payment upon Termination.* In the event of termination of Engineer's services by Owner, Engineer will be paid for Basic Services rendered to date of termination in accordance with the method of payment defined in the letter part of this Agreement except that under the lump sum method, the adjusted fee shall be determined by proportioning the stipulated amount to reflect the percentage of completion of the Project, as mutually agreed to by Owner and Engineer. Engineer will also be paid for additional services rendered to date of termination in accordance with the method of payment defined in the letter part of this Agreement.

3.01 Additional Services

A. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth in the letter part of this Agreement.

B. Owner shall pay Engineer for such additional services as follows: For additional services of Engineer's employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any.

4.01 Owner's Responsibilities

Owner shall perform the following in a timely manner so as not to delay the services of Engineer under this Agreement. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all reports, data and other information furnished pursuant to this paragraph. Engineer may use such reports, data and information in performing or furnishing services under this Agreement.

A. Designate in writing a person to act as Owner's representative with respect to the services to be rendered under this

Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define Owner's policies and decisions with respect to Engineer's services for the Project. Engineer shall not rely on directions from anyone outside the scope of that person's authority as set forth in written delegations. Directions and decisions made by the Owner's representatives shall be binding on the Owner.

B. Provide all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints; space, capacity, and performance requirements; flexibility and expandability; and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications.

C. Assist Engineer by placing at Engineer's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

D. Furnish to Engineer, as required for performance of Engineer's Basic Services (except to the extent provided otherwise in Section 1.01) the following:

1. Data prepared by or services of others including, without limitation, borings, probings, subsurface explorations and hydrographic surveys at or contiguous to the site, laboratory tests and inspections of samples, materials, and equipment;

2. Appropriate professional interpretations of all of the foregoing;

3. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the site and adjacent areas;

4. Property, boundary, easement, right-of-way, topographic and utility surveys;

5. Property descriptions;

6. Zoning, deed and other land use restrictions; and

7. Other special data or consultations not covered in Section 3.01; all of which Engineer may use and rely upon in performing services under this Agreement.

E. Arrange for access to and make all provisions for Engineer and any necessary equipment to enter upon public and private property as required for Engineer to objectively and independently perform services under this Agreement.

F. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by Engineer, obtain advice of an attorney, insurance counselor and other consultants as Owner deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the service of Engineer.

G. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

H. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as Owner may require or Engineer may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as Owner may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.

EXHIBIT "A"
TERMS & CONDITIONS (Design Phase)

I. If more than one prime contract is to be awarded for construction, materials, equipment and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

J. Furnish to Engineer data or estimated figures as to Owner's anticipated costs for services to be provided by others for Owner (such as services pursuant to paragraphs G through I inclusive) so that Engineer may make the necessary findings to support opinions of probable Total Project Costs.

K. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of any constituent of concern or any development that affects the scope or timing of Engineer's services, or any defect or non-conformance in the work of any Contractor.

L. Place and pay for advertisement for Bids in appropriate publications.

M. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.

N. Furnish, or direct Engineer to provide, Additional Services as stipulated in Section 3.01.

O. Except as provided in paragraph N, bear all costs incident to compliance with the requirements of this Section 4.01.

5.01 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.
 - b. By Engineer:
 - 1) upon seven days written notice if Engineer believes that Engineer is being requested by Owner to furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
 - 3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under paragraph 5.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by either party effective upon the receipt of notice by the other party.

B. The terminating party under paragraphs 5.01.A.1 or 5.01.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

6.01 Controlling Law

This Agreement is to be governed by the law of the state in which the project is located without regard to any conflict of laws provisions, which may apply the laws of other jurisdictions.

7.01 Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 7.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

8.01 General Considerations

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. Owner agrees that if Engineer is not employed to provide professional services during the Bidding (if the work is put out for bids) and the Construction Phases of the Project, Engineer will not be responsible for, and Owner shall indemnify, hold Engineer (and Engineer's professional associates and consultants) harmless, and defend Engineer from all claims, damages, losses and expenses including attorneys' fees

EXHIBIT "A"
TERMS & CONDITIONS (Design Phase)

arising out of, or resulting from any interpretation, clarification, substitution acceptance, shop drawing or sample approval or modification of such documentation issued or carried out by Owner or others. Nothing contained in this paragraph shall be construed to release Engineer (or Engineer's professional associates or consultants) from liability for failure to perform in accordance with professional standards any duty or responsibility which Engineer has undertaken or assumed under this Agreement.

C. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Such documents are not intended or represented to be suitable for reuse by Owner or others in extensions of the facility beyond that now contemplated or on any other facility. Any reuse by Owner or others without specific written verification or adaptation by Engineer for the specific purpose intended will be at user's sole risk and without liability or legal exposure to Engineer, or to Engineer's independent professional associates or consultants, and Owner shall indemnify and hold harmless Engineer and Engineer's independent professional associates and consultants from all claims, losses, damages of any kind or nature, judgments, and expenses (including, but not limited to, reasonable attorney's fees and any costs), arising out of or resulting therefrom. Any such verification and adaptation will entitle Engineer to further compensation at rate to be agreed upon by Engineer and Owner.

D. **To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's (including Engineer's employees, officers, directors, agents and insurers, partners, and consultants) total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater. The Owner may negotiate with the Engineer in the event the Owner wishes to change the total liability described herein but acknowledges that any change may result in an additional fee. This additional fee is in consideration of the greater risk involved in performing work for which there is an increase or no limitation of liability.**

E. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

F. Owner acknowledges that:

(i) Engineer is not recommending any action to Owner or other obligated person hereunder that would cause Consultant to be considered a municipal advisor for purposes of the Securities and Exchange Commission Registration of Municipal Advisors Rule, 78 Fed. Reg. 67468 (2013);

(ii) Engineer does not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4) to Owner or other obligated person with respect to the information and material contained in this Agreement or any Project deliverable; and

(iii) Owner or other obligated person should discuss any

information and material contained in this Agreement or Project deliverable with any and all internal or external advisors and experts that Owner or other obligated person deems appropriate before acting on this information or material.

9.01 Period of Service

A. The specific schedule of services is more specifically described in the letter part of this Agreement or an exhibit thereto. The term of this agreement commences upon the acceptance of this Agreement (including all exhibits) by owner and terminates upon completion of the services described in the letter part of this Agreement.

B. The provisions of this Section 9.01 and the various rates of compensation for Engineer's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the Construction Phase. If execution of this Agreement and authorization to proceed with the Bidding or Negotiating Phase is delayed beyond the date and time frame established in the letter part of the agreement, or if Engineer's services are delayed or suspended for more than three (3) months by Owner or for reasons beyond Engineer's control, all rates, measures and amounts of compensation provided herein shall be subject to equitable adjustment.

C. If Owner has requested significant modifications or changes in the general scope, extent or character of the Project, the time of performance of Engineer's services shall be adjusted equitably.

D. Any delay in or failure of performance of any party to this Agreement shall not constitute a default under this Agreement nor give rise to any claim for damage, if and to the extent such delay or failure is caused by occurrences or events beyond the control of the party affected, including but not limited to, acts of God; expropriation or confiscation of facilities or compliance with any order or request of government authority, affecting to a degree not presently existing, the supply, availability, or use of personnel or equipment; strikes; flood blizzard, labor unrest, riot; or any cause the affected party is unable to prevent or foresee with reasonable diligence. A party who is prevented from performing for any reason shall immediately notify the other in writing of the reason for the nonperformance and the anticipated extent of any delay and its efforts to minimize the extent of delay and resume performance under this Agreement.

10.01 Opinions of Probable Cost

Since Engineer has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, Engineer's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but Engineer cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by Engineer. If prior to the Bidding or Negotiating Phase Owner wishes greater assurance as to Total Project or Construction Costs, Owner shall employ an independent cost estimator.

11.01 Dispute Resolution

A. Owner and Engineer agree to negotiate in good faith for a period of thirty (30) days from the date of notice of disputes between them as to the execution, meaning of, or performance under the terms of this Agreement prior to exercising their right under paragraph 11.01(B) below. The thirty-day period may be extended upon mutual agreement of the parties.

EXHIBIT "A"
TERMS & CONDITIONS (Design Phase)

B. If any dispute cannot be resolved pursuant to paragraph 11.01(A) and only if mutually agreed by Owner and Engineer, said dispute and all unsettled claims, counterclaims and other matters in question between them arising out of or relating to the execution, meaning of, or performance under the terms of this Agreement or the breach thereof ("disputes") shall be submitted to mediation by a mediator, to be selected by the parties jointly, prior to initiating a legal action against the other, unless initiating mediation would irrevocably prejudice one of the parties. It is the intention of the parties that any agreement reached at mediation become binding upon them. The cost of mediation shall be shared equally between the parties.

Owner shall be named as additional insured with respect to the coverages set forth in (b) and (c) above, on a primary & non-contributory basis.

C. This Section 11.01 shall survive any termination or cancellation of this Agreement.

12.01 Total Agreement/ Severability

This Agreement (consisting of the letter part of this Agreement, Exhibit "A" and any additional exhibits referenced in the letter part of this Agreement), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument. Any provision or part of this Agreement held by a court of law to be invalid or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, who agree that the Agreement shall be reformed to replace such stricken provision or part therefore with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

13.01 Notice

Any notice required by the terms of this Agreement to be given by one party to another shall be in writing, and shall be deemed to have been duly given (a) on the date of service, if served personally on the party to whom notice is to be given, or (b) on the third day after mailing, if mailed to the party to whom notice is to be given by first-class certified mail, postage prepaid, return receipt requested, at the addresses and to the persons set forth in the letter part of this Agreement. Either party hereto may change its address for notice purposes by giving notice to the other party as prescribed by this paragraph 13.01. For purposes of this notice provision, failure or refusal to accept receipt of notice shall constitute notice nonetheless.

14.01 Insurance

A. The following types and amounts of insurance shall be procured and maintained by the Engineer throughout the duration of the Project:

a. **Worker's Compensation Insurance** in the amounts required by law to provide protection for employees of the Engineer in the event of job-related injuries.

b. **Comprehensive General Liability Insurance, including broad form and contractual liability endorsement**, having a limit of \$1,000,000 per occurrence and \$1,000,000 Aggregate for personal injury and property damage.

c. **Automobile Liability Insurance** having a combined single limit of \$1,000,000 for bodily injury and property damage per occurrence/policy aggregate.

d. **Professional Liability or Errors and Omissions Insurance** having limits of \$1,000,000 per claim and \$1,000,000 aggregate liability.

November 27, 2023

Mr. Jeffrey Rowe, City Engineer
City of Oneida
109 N. Main Street
Oneida, NY 13421

Re: Engineering Services Proposal
Upgrade Facilities at Veterans Memorial Park
30% Design Documents

Dear Mr. Rowe:

C&S is pleased to provide this proposal to provide engineering services for the proposed improvements to Veterans Memorial Park. At this time, the City has requested a proposal to provide 30% design documents for the project, identified in the DRI as Project #11-Ugrade Facilities at Veterans Memorial Park.

Project Understanding

The City of Oneida would like to make improvements to the current Veterans Memorial Park to provide inclusive recreational amenities to be used by multiple generations, that allows all potential users, regardless of age or ability to enjoy. The park provides services for many residents on the northside of the city, and it has the highest visitation of all city parks. Specific desired improvements have been identified in the DRI, include the following:

- *Construction of a new ADA compliant splashpad*
- *Renovations, repairs and upgrades to the existing bathrooms to provide ADA compliance*
- *Converting existing tennis courts to pickle ball courts*
- *Upgrades to the existing basketball court*
- *Upgrades to the existing pool filtration system*
- *Improvements/enhancements to the existing Veteran's Memorial*

Project Approach

Study Initiation and Kickoff Meeting

Our design professionals will meet with City officials for an in-person meeting to review the project scope, establish meeting dates, obtain any available data or materials, and review the overall goals of the project. Specific important criteria influencing the design will be discussed including the City's operating and maintenance capabilities.

Topographic Survey

C&S will team with a licensed survey firm, GdB Geospatial, to obtain topographic survey of the project area. The team will collect topographic data, including one-foot contours, spot elevations, and the size and location of all existing above-ground and underground utilities, existing features, buildings and right-of-way. Highway boundaries will be established using deed research and property lines will be placed to

tax map accuracy. GdB Geospatial has an experienced and highly qualified survey team and is also a New York State registered Women-owned Business Enterprise (WBE), and Disadvantaged Business Enterprise (DBE).

Data Gathering and Existing Conditions Assessment

After the kick-off meeting, an on-site visit to the project site will be completed to inventory and assess the condition of the existing features including but not limited to the pool filtration equipment, site and building utilities, bathrooms and overall building envelope, site features, veteran's memorial, and tennis courts. The focus of the data collection effort will be to identify areas of physical improvements for safety and accessibility.

Creation of Design Concepts

C&S will work with a splash pad equipment manufacturer to select ADA accessible, age-appropriate equipment for different target age groups. Once preliminary equipment selections are made, an overlay of the proposed design will be placed on the topographic survey base map showing splash pad and the supporting piping and equipment. Additional elements to be shown on the plan include improvements to the Veterans Memorial, pickle ball court layout and associated landscape and hardscape improvements. C&S will also work with pool equipment vendors to develop schematic piping and equipment layouts for upgrades to the pool water filtration system. Preliminary elevations and plan views for the ADA upgrades to the restroom will also be developed. In addition to conceptual design plans, a design narrative and report along with an order of magnitude construction cost estimate will be provided.

Assumptions/Exclusions

1. Up to date boundary and topographic survey will be provided by our subconsultant, GdB Geospatial.
2. Detailed engineering analysis (structural, architectural, MEP) are not included. Only visual assessments will be conducted.
3. Detailed construction cost estimates are not included.
4. There are no environmental impediments (wetlands, endangered species, archeology, floodplains, underground storage tanks, etc.) to the development of the property as intended and any related studies are not included.
5. Hazardous materials investigations are not included.
6. Destructive and non-destructive testing of principal building materials is not included.
7. SEQR efforts are not included.
8. Attend two meetings with the city.

Fee(s): (Lump Sum)

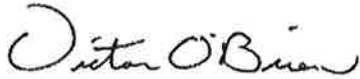
Topographic Survey	\$15,100
Meetings, Concept Plans, Phase Report	\$27,000
Total Lump Sum Fee:	\$42,100

Fee to be invoiced monthly based on percent complete.

If we have misinterpreted the scope of work in any way, please let me know. Our proposal can be modified accordingly. The attached terms and conditions will become a part of this agreement when signed by you. We look forward to working with you.

Sincerely,

C&S ENGINEERS, INC.



Victor O'Brien, P.E.
Department Manager

Accepted by:

Date:

EXHIBIT "A"
TERMS & CONDITIONS (Design Phase)

These Terms and Conditions govern the performance by or through Engineer of the Scope of Services set forth in the letter part of this Agreement. Capitalized terms used herein, unless otherwise defined, shall have the meanings ascribed thereto in the letter and/or scope of services. Owner and Engineer agree as follows:

1.01 Basic Agreement

Engineer shall provide, or cause to be provided, the services set forth in the letter part of this Agreement, and Owner shall pay Engineer for such Services as set forth in Section 2.01.

2.01 Payment Procedures

A. *Terms of Payment.* Refer to the letter part of this Agreement between Owner and Engineer for the method of payment to Engineer.

B. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner.

C. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal. In addition, Owner agrees to pay all expenses incurred by Engineer as a result of Owner's failure to fulfill its obligations under this Agreement, including but not limited to, costs, disbursements, and attorney's fees.

D. *Payment upon Termination.* In the event of termination of Engineer's services by Owner, Engineer will be paid for Basic Services rendered to date of termination in accordance with the method of payment defined in the letter part of this Agreement except that under the lump sum method, the adjusted fee shall be determined by proportioning the stipulated amount to reflect the percentage of completion of the Project, as mutually agreed to by Owner and Engineer. Engineer will also be paid for additional services rendered to date of termination in accordance with the method of payment defined in the letter part of this Agreement.

3.01 Additional Services

A. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth in the letter part of this Agreement.

B. Owner shall pay Engineer for such additional services as follows: For additional services of Engineer's employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any.

4.01 Owner's Responsibilities

Owner shall perform the following in a timely manner so as not to delay the services of Engineer under this Agreement. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all reports, data and other information furnished pursuant to this paragraph. Engineer may use such reports, data and information in performing or furnishing services under this Agreement.

A. Designate in writing a person to act as Owner's representative with respect to the services to be rendered under this

Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define Owner's policies and decisions with respect to Engineer's services for the Project. Engineer shall not rely on directions from anyone outside the scope of that person's authority as set forth in written delegations. Directions and decisions made by the Owner's representatives shall be binding on the Owner.

B. Provide all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints; space, capacity, and performance requirements; flexibility and expandability; and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications.

C. Assist Engineer by placing at Engineer's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

D. Furnish to Engineer, as required for performance of Engineer's Basic Services (except to the extent provided otherwise in Section 1.01) the following:

1. Data prepared by or services of others including, without limitation, borings, probings, subsurface explorations and hydrographic surveys at or contiguous to the site, laboratory tests and inspections of samples, materials, and equipment;
2. Appropriate professional interpretations of all of the foregoing;
3. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the site and adjacent areas;
4. Property, boundary, easement, right-of-way, topographic and utility surveys;
5. Property descriptions;
6. Zoning, deed and other land use restrictions; and
7. Other special data or consultations not covered in Section 3.01; all of which Engineer may use and rely upon in performing services under this Agreement.

E. Arrange for access to and make all provisions for Engineer and any necessary equipment to enter upon public and private property as required for Engineer to objectively and independently perform services under this Agreement.

F. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by Engineer, obtain advice of an attorney, insurance counselor and other consultants as Owner deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the service of Engineer.

G. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

H. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as Owner may require or Engineer may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as Owner may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.

EXHIBIT "A"
TERMS & CONDITIONS (Design Phase)

I. If more than one prime contract is to be awarded for construction, materials, equipment and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

J. Furnish to Engineer data or estimated figures as to Owner's anticipated costs for services to be provided by others for Owner (such as services pursuant to paragraphs G through I inclusive) so that Engineer may make the necessary findings to support opinions of probable Total Project Costs.

K. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of any constituent of concern or any development that affects the scope or timing of Engineer's services, or any defect or non-conformance in the work of any Contractor.

L. Place and pay for advertisement for Bids in appropriate publications.

M. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.

N. Furnish, or direct Engineer to provide, Additional Services as stipulated in Section 3.01.

O. Except as provided in paragraph N, bear all costs incident to compliance with the requirements of this Section 4.01.

5.01 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.
 - b. By Engineer:
 - 1) upon seven days written notice if Engineer believes that Engineer is being requested by Owner to furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
 - 3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under paragraph 5.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by either party effective upon the receipt of notice by the other party.

B. The terminating party under paragraphs 5.01.A.1 or 5.01.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

6.01 Controlling Law

This Agreement is to be governed by the law of the state in which the project is located without regard to any conflict of laws provisions, which may apply the laws of other jurisdictions.

7.01 Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 7.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

8.01 General Considerations

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. Owner agrees that if Engineer is not employed to provide professional services during the Bidding (if the work is put out for bids) and the Construction Phases of the Project, Engineer will not be responsible for, and Owner shall indemnify, hold Engineer (and Engineer's professional associates and consultants) harmless, and defend Engineer from all claims, damages, losses and expenses including attorneys' fees

EXHIBIT "A"
TERMS & CONDITIONS (Design Phase)

arising out of, or resulting from any interpretation, clarification, substitution acceptance, shop drawing or sample approval or modification of such documentation issued or carried out by Owner or others. Nothing contained in this paragraph shall be construed to release Engineer (or Engineer's professional associates or consultants) from liability for failure to perform in accordance with professional standards any duty or responsibility which Engineer has undertaken or assumed under this Agreement.

C. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Such documents are not intended or represented to be suitable for reuse by Owner or others in extensions of the facility beyond that now contemplated or on any other facility. Any reuse by Owner or others without specific written verification or adaptation by Engineer for the specific purpose intended will be at user's sole risk and without liability or legal exposure to Engineer, or to Engineer's independent professional associates or consultants, and Owner shall indemnify and hold harmless Engineer and Engineer's independent professional associates and consultants from all claims, losses, damages of any kind or nature, judgments, and expenses (including, but not limited to, reasonable attorney's fees and any costs), arising out of or resulting therefrom. Any such verification and adaptation will entitle Engineer to further compensation at rate to be agreed upon by Engineer and Owner.

D. **To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's (including Engineer's employees, officers, directors, agents and insurers, partners, and consultants) total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater. The Owner may negotiate with the Engineer in the event the Owner wishes to change the total liability described herein but acknowledges that any change may result in an additional fee. This additional fee is in consideration of the greater risk involved in performing work for which there is an increase or no limitation of liability.**

E. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

F. Owner acknowledges that:

(i) Engineer is not recommending any action to Owner or other obligated person hereunder that would cause Consultant to be considered a municipal advisor for purposes of the Securities and Exchange Commission Registration of Municipal Advisors Rule, 78 Fed. Reg. 67468 (2013);

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D. Any delay in or failure of performance of any party to this Agreement shall not constitute a default under this Agreement nor give rise to any claim for damage, if and to the extent such delay or failure is caused by occurrences or events beyond the control of the party affected, including but not limited to, acts of God; expropriation or confiscation of facilities or compliance with any order or request of government authority, affecting to a degree not presently existing, the supply, availability, or use of personnel or equipment; strikes; flood blizzard, labor unrest, riot; or any cause the affected party is unable to prevent or foresee with reasonable diligence. A party who is prevented from performing for any reason shall immediately notify the other in writing of the reason for the nonperformance and the anticipated extent of any delay and its efforts to minimize the extent of delay and resume performance under this Agreement.

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EXHIBIT "A"
TERMS & CONDITIONS (Design Phase)

B. If any dispute cannot be resolved pursuant to paragraph 11.01(A) and only if mutually agreed by Owner and Engineer, said dispute and all unsettled claims, counterclaims and other matters in question between them arising out of or relating to the execution, meaning of, or performance under the terms of this Agreement or the breach thereof ("disputes") shall be submitted to mediation by a mediator, to be selected by the parties jointly, prior to initiating a legal action against the other, unless initiating mediation would irrevocably prejudice one of the parties. It is the intention of the parties that any agreement reached at mediation become binding upon them. The cost of mediation shall be shared equally between the parties.

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b. **Comprehensive General Liability Insurance, including broad form and contractual liability endorsement**, having a limit of \$1,000,000 per occurrence and \$1,000,000 Aggregate for personal injury and property damage.

c. **Automobile Liability Insurance** having a combined single limit of \$1,000,000 for bodily injury and property damage per occurrence/policy aggregate.

d. **Professional Liability or Errors and Omissions Insurance** having limits of \$1,000,000 per claim and \$1,000,000 aggregate liability.

NEW BUSINESS:

PUBLIC COMMENT:

Motion to adjourn by Councilor
Seconded by Councilor

Ayes:

Nays:

MOTION CARRIED

The regular meeting is hereby adjourned at _____ p.m.

CITY OF ONEIDA

Sandra LaPera, City Clerk