

## REQUEST FOR PROPOSALS

NOTICE IS HEREBY GIVEN; that the Undersigned, on behalf of the Essex County Board of Supervisors, will accept sealed Proposals at the Office of the Purchasing Agent until 2:00 P.M. on October 6, 2021 for an Electronic Records Management System.

RFPs are available at: <https://www.co.essex.ny.us/wp/bid>. **RFPs may be submitted electronically through VSS or Bidnet Direct, or mailed or delivered to:** Essex County Purchasing, PO Box 217, 7551 Court Street, Elizabethtown, New York 12932.

Specifications are available by contacting the Office of the Purchasing Agent, 7551 Court Street, Elizabethtown, New York 12932, by calling 518-873-3330.

All proposals submitted in response to this notice shall be marked "SEALED PROPOSAL – ELECTRONIC RECORDS MANAGEMENT SYSTEM" clearly on the outside of the envelope with the proposer's name and address.

In the event that the Essex County Purchasing Office is closed the day of Proposal opening due to unforeseen circumstances, the proposal(s) will be opened the next business day that the Essex County Purchasing Office is open. The Proposal submission time will remain the same.

Essex County affirmatively states that in regard to any contract entered into pursuant to these instructions, without regard to race, color, sex, religion, age, national origin, disability, sexual preference or Vietnam Era veteran status, disadvantaged and minority or women-owned business enterprises will be afforded equal opportunity to submit bids in response hereto.

Dated: August 31, 2021

Linda M. Wolf, CPA  
Purchasing Agent  
Essex County Government Center  
Elizabethtown, New York 12932

**ESSEX COUNTY**  
**REQUEST FOR PROPOSALS**

**Integrated County Clerk's  
Records Management System**

**Issue Date:**

**August 31, 2021**

**Due Date:**

**October 6, 2021  
Prior to 2:00 p.m.**

**Respond to:**

**Essex County  
P.O. Box 217  
7551 Court Street  
Elizabethtown, NY 12932  
Attention: Linda Wolf, CPA, Purchasing Agent**

**ESSEX COUNTY PURCHASING DEPARTMENT  
RESPONSE CHECKLIST**

Integrated County Clerk's Electronic Records Management System

The Proposers attention is especially called to the terms listed below, which must be submitted in full as part of this proposal.

Failure to submit any of the documents listed below as a part of your proposal, or failure to acknowledge any addendum in writing with your proposal, or submitting a proposal on any condition, limitation or provision not officially invited in this RFP (Request for Proposals) may be cause for rejection of the proposal.

Please check each item indicating your compliance.

**THIS CHECKLIST MUST BE SUBMITTED AS PART OF YOUR PROPOSAL.**

- \_\_\_\_\_ RESPONSE CHECKLIST
- \_\_\_\_\_ PRICING SUBMISSION SHEET (Vendor's Own Submission)
- \_\_\_\_\_ NON-COLLUSION FORM
- \_\_\_\_\_ PROPOSAL FORM
- \_\_\_\_\_ REQUIRED FORMS AS LISTED IN RFP
- \_\_\_\_\_ ADDENDUM(S) ACKNOWLEDGED (IF APPLICABLE)
- \_\_\_\_\_ ADDITIONAL LITERATURE/BROCHURES – IF APPLIES
- \_\_\_\_\_ ONE (1) ORIGINAL AND ONE (1) ELECTRONIC COPY OF PROPOSAL DOCUMENTS
- \_\_\_\_\_ *Please do not submit spiral bound copies-*
- \_\_\_\_\_ VENDOR RESPONSIBILITY FORM
- \_\_\_\_\_ IRAN CERTIFICATION FORM
- \_\_\_\_\_ INSURANCE/WORKERS' COMPENSATION/DISABILITY

Please read all the information contained in this package.

<b>COMPANY</b>	<b>TELEPHONE NUMBER</b>
<b>ADDRESS</b>	<b>EMAIL ADDRESS</b>
<b>AUTHORIZED REPRESENTATIVE (PRINT)</b>	<b>TITLE</b>
<b>AUTHORIZED SIGNATURE</b>	<b>DATE</b>

## **INSTRUCTIONS TO PROPOSER**

Proposal can be submitted one of three ways, either:

- 1) Electronically through Essex County's MUNIS VENDOR SELF SERVICE; or
- 2) Electronically through BidNetDirect; or
- 3) Hard Copies sent or hand delivered to the Purchasing Office.

In addition to the proposal, the proposer shall submit executed non-collusion bid certificates signed by the proposer or one of its officers as required by the General Municipal Law Sec. 103d. The proposer shall also submit an executed certificate of compliance with the Iran Divestment Act signed by the proposer or one of its officers as required by the General Municipal Law Sec. 103g.

The successful proposer will be notified promptly by letter and must be prepared to enter into a contract to furnish the materials or services.

Essex County reserves the right to reject any and all proposals not considered to be in the best interest of Essex County, and to waive any technical or formal defect in the proposals which is considered by Essex County to be merely irregular, immaterial, or unsubstantial.

Questions will be received until six (6) days before the opening date. Please address all questions, in writing, to: [linda.wolf@essexcountyny.gov](mailto:linda.wolf@essexcountyny.gov) or [donna.thompson@essexcountyny.gov](mailto:donna.thompson@essexcountyny.gov).

Addenda will be posted on Essex County's MUNIS VSS, the Essex County Website and BidNetDirect, interested vendors are urged to check before submitting their bid.

The contractual period for this Request for Proposal is to be submitted in two parts on the Bid Calculation and Pricing Sheet located on Pages 35-36.

The term will cover five (5) years with the option to renew for three (3) additional one year terms. The County reserves the right to terminate the agreement at any time through the initial term (or thereafter) with appropriate notice to the firm.

Each bidder will need to complete, sign, have notarized and return the following documents with their Proposal:

- 1) Vendor Responsibility Questionnaire
- 2) Certification of Compliance With Iran Divestment Act
- 3) Non-Collusive Bidding Certification

## **SECTION I - BACKGROUND:**

### **PURPOSE**

Essex County is soliciting proposals from vendors to provide an Integrated County Clerk's Electronic Records Management System. It is the intent of this document to list the requirements of a vendor to provide services, supplies and equipment for a Land and Court Records System that includes, but not be limited to, the following components: Land Index Module, Civil and Criminal Courts Index Module, Lien Module, Judgment Module, Pistol Permit Module, Veteran Card Module, Court Fines and Surcharges Module, Customer Payment Account Module, New York State Mortgage and Transfer Tax Reporting, Imaging Capability, Public Search Capability, Web Search Module, Electronic Endorsement Page, and Electronic Recording and Filing Module.

The County Clerk's Office desires the highest level of service, integration and efficiency for the County and its constituency. In order to promote the quality and accuracy of the system and data, the entire "single-source" solution should be managed and performed by one vendor who possesses the necessary resources and expertise to provide all of these services in-house (the use of subcontractors to interface with the County Clerk's Office is not permitted). A "single-source" solution enables the County to maximize system uptime, speed issue resolution, safeguard our valuable records, and provide the highest level of efficiency for the Office. Prospective vendors must offer a proposal that will meet the scope of services, qualifications and general description of work activities identified within this Request for Proposal (RFP). The vendor may provide off-site computer operations located within the United States for the Land and Court Records Management System at a 24 /7 operations Data Center owned and operated by the vendor and shall provide the capability of contact by the County Clerk through standard telephone, fax and e-mail service. If a vendor is capable of providing off-site computer operations, the vendor shall submit pricing for this option as well as for the option of housing the system within the Essex County Clerk's Office. The Essex County Clerk is open to changing existing conditions and procedures to improve efficiency and services so long as the quality and statutory standards are met.

In responding to this RFP, vendors must follow the prescribed format as outlined in this RFP. By so doing, each vendor will be providing the County with comparable data as submitted by all other vendors, and thus, be assured of fair and objective treatment in the County Awards Committee review and evaluation process.

### **OVERVIEW OF ESSEX COUNTY**

Essex County is located in New York State's Adirondack Park. The 2010 Census population for the County was 39,370. The County's major business sectors in the region include manufacturing, construction, forestry, agriculture, and tourism but the area's unique quality of life attracts a diversity of firms in all segments of the economy.

The Essex County Board of Supervisors is responsible for overall operations and consists of eighteen (18) members. The County operates on a calendar fiscal year.

The Office processes an average of the following number of transactions per year:

- Recorded Documents: 8,900
- Judgments: 1,020

- Civil Court Cases: 700 actions commenced
- Criminal Court Cases: 200 actions commenced
- Pistol Permit Transactions: 4,000
- Passports: 500
- Lien Filings: 300

## TECHNICAL ENVIRONMENT

At present, the County Clerk owns no hardware for its integrated computer system. All current hardware is owned and serviced by the software vendor. Current images and index data (totaling approximately 800 GB) are housed on a server in the County Clerk's Office. The server is continuously backed up to a local device housed in the County Clerk's Office. The server is also backed up daily to an offsite server in the current vendor's location. This server is backed up daily to a third device in a geographically distant location. These redundancies ensure the preservation and security of the County Clerk's records. The operating environment is a full-service solution including all software, updates, upgrades, hardware, hardware maintenance costs, microfilm creation and storage, disaster recovery, data file and backup, 8 a.m. to 5 p.m. technical support and real time internet product.

### **SECTION II – TERM OF CONTRACT:**

The term of contract will be five (5) years with the option to renew annually for up to an additional three (3) years by mutual agreement.

### **SECTION III - SCOPE OF SERVICES:**

This proposal is for an integrated County Clerk database solution. The System shall include, but not be limited to: cashiering with appropriate "pass-through" indexing and accounting; cross reference indexing; ability to restrict specific searches to specific security profiles; ability to search verified and/or unverified information with offsite search and billing capabilities [potentially for real property and/or court recording and filing]; unlimited scanning (imaging); in-house tagging and back-scanning; redaction capabilities for partial or entire documents; reports and/or interface that shall meet the requirements of the County Clerk, New York State [including, but not limited to, Taxation and Finance (Mortgage Tax, Real Estate Transfer Tax & Income Tax), Office of Real Property Services, Department of State (Notary Public & Corporation Divisions), Office of Court Administration, State Archives (Cultural Affairs & Records Management), State of New York Mortgage Agency, State Police, and the Division of Criminal Justice Services], other County Departments (Treasurer, Real Property Services, County Board of Supervisors, other County Clerk Offices); Pistol Permit program with Veteran Card capabilities; map scanning capabilities, Passport application transmittal, Internal Revenue Service liens and billing, availability of remote access and transmission to town and/or village governmental units, and such other functions as may be necessary to comply with specifications as outlined in the following specific sections.

## SPECIFICATIONS

*Vendor Note: Vendor must respond to each specification. In this section answer Y (yes) or N (no) to the statements. Explanations may be printed below the item in bold print or attached if desired on a separate sheet.*

### ADDITIONAL SERVICES TO THE GENERAL SCOPE AND PURPOSES

**The items listed below may or may not be referenced in the system specifications later in this RFP. For this section of questions, if the service cited is available and is part of the base contract price, answer YES. If the service is available at an additional charge, answer YES and provide the cost in the Optional Services section. (See pages 35 and 36.) If the service is not available, answer NO.**

- | <i>YES</i> | <i>NO</i> |   |
|------------|-----------|---|
| _____      | _____     | 1. Does vendor provide online access to records?  |
| _____      | _____     | 2. Does vendor provide electronic filing of court documents?  |
| _____      | _____     | 3. Does vendor provide electronic recording of land documents?  |
| _____      | _____     | 4. Does vendor provide digitized image to microfilm conversion services?  |
| _____      | _____     | 5. Does vendor provide microfilm to digitized image conversion services?  |
| _____      | _____     | 6. Does vendor provide both onsite and offsite scanning of historic documents, as well as loading and linking of the resulting digital images to an electronic indices? |
| _____      | _____     | 7. Is vendor an authorized EPM (Eastman Park Micrographic, f/k/a Kodak) or Fuji (or the equivalent – identify by name) microfilm processing lab?                        |
| _____      | _____     | 8. Does vendor provide remote data entry index services for current and/or historic documents?  |
| _____      | _____     | 9. Does vendor provide remote verification services? If yes, please indicate guaranteed turn-around time for this service.  |
| _____      | _____     | 10. Does the vendor offer auto-assisted indexing (OCR of digital images to capture index data)?   |
| _____      | _____     | 11. Does the vendor offer redaction capability as part of its system or as a separate redaction module with a separate fee?   |
| _____      | _____     | 12. Does vendor provide book re-creation services?  |
| _____      | _____     | 13. Does vendor provide film verification services for deeds, mortgages, etc.?  |

\_\_\_\_ 14. Does vendor provide supplies and consumables such as paper, toner, etc. for all hardware/peripherals it installs either as part of the system contract or at an additional fee? If vendor is willing to supply and additional fees will be required for the supplies, enter in the Optional Services portion of the Bid Calculations Section and specify items to be supplied and the cost.

\_\_\_\_ 15. Is vendor an authorized Enduro product vendor? If yes, please provide price quote for canvas covers and Indestructo binders, including any additional fees for onsite measuring and installation by vendor.

\_\_\_\_ 16. Does vendor offer microfilm, data and image storage?

*Vendor Note: Vendor must respond to each specification. **Fully Comply [F], Partially Comply [P - with details], Do Not Comply [N]**. Failure to respond in this manner could lead to rejection of proposal. Response can be on separate sheet or entered directly below the item using bold print. Provide explanation if Partial or Not in Compliance.*

#### GENERAL CONTRACT REQUIREMENTS CHECKLIST

F P N

\_\_\_\_ 1. Delivery and installation of system, including software and hardware to be no more than **90** days after award of contract. Training of Essex County Clerk personnel to be performed after delivery. Installation must include all requirements and specifications listed in this document unless scheduled otherwise by mutual agreement.

\_\_\_\_ 2. Preference may be given to vendors that employ at least 50-75 full time employees.

\_\_\_\_ 3. Preference may be given to vendors that have government Land and Court Records Management Systems installed in three (3) or more states.

\_\_\_\_ 4. Preference may be given to vendors that have at least three (3) government Land, Court and Pistol Permit records management and imaging systems in New York State that have been operational for a period of least three (3) years.

\_\_\_\_ 5. Preference may be given to vendors that have at least three (3) government Land records management and imaging systems in New York State that accept electronically recorded documents.

\_\_\_\_ 6. Preference may be given to vendors that have at least three (3) government Court records management and imaging systems in New York State that accept electronically filed documents through NYSCEF.

\_\_\_\_ 7. Preference may be given to vendors that have hardware and software technicians physically located within New York State.

\_\_\_\_ 8. Vendor must provide audited financial statements for the previous three years.



\_\_\_ \_\_\_ \_\_\_ 9. Vendor must be an authorized EPM (Eastman Park Micrographic, f/k/a Kodak) or Fuji microfilm-processing lab for at least three years or the equivalent of same (specify name of service to be used).

\_\_\_ \_\_\_ \_\_\_ 10. Vendor may not subcontract any work outside of the United States. Any subcontracting used must be performed directly with the vendor. Essex County will work solely with the vendor who is awarded the contract. Preference will be given to vendors who do not use any subcontracting.

\_\_\_ \_\_\_ \_\_\_ 11. Vendor must own the software being proposed to the County. Any variation from this must be specifically outlined with the name and address of the owner provided. Vendor must not use outside software during the course of the contract without the County's express written consent.

\_\_\_ \_\_\_ \_\_\_ 12. Vendor must adhere to Service Level Agreements [SLA's] mutually agreed upon between the County and vendor guaranteeing system availability, responsiveness to hardware/software issues, etc.

\_\_\_ \_\_\_ \_\_\_ 13. Conversion of existing databases must be completed prior to final system installation. The County will be the final authority on acceptance of conversion completion, accuracy and dependability. Conversion timetable must be provided and strictly adhered to by the vendor.

\_\_\_ \_\_\_ \_\_\_ 14. All notations, flags, remarks, associated books and cross references shall be carried over through the conversion process, e.g. satisfactions, discharges, releases, County Clerk's notes, remarks, etc.

\_\_\_ \_\_\_ \_\_\_ 15. The Essex County Clerk's Office will give special consideration to ideas and/or systems that allow for improved workflow and create efficiencies that will provide savings to County taxpayers. If there are any items within the scope of work outlined in these specifications that can be completed in a different manner or provided by an alternative cost-effective solution, it will be encouraged. Any such service or system should be identified and detailed.

#### MATERIAL AND SUPPLIES

F P N

\_\_\_ \_\_\_ \_\_\_ 1. Vendor will supply pre-paid, addressed, mailing labels for all routine deliveries to the vendor.

\_\_\_ \_\_\_ \_\_\_ 2. Vendor will be responsible for shipping and/or delivery charges for items forwarded to County Clerk in connection with maintenance contracts or delivery of contractual supplies. [If such charges are to be assessed for special order items, the cost will be clearly itemized on the invoice.]

\_\_\_ \_\_\_ \_\_\_ 3. Vendor will supply specialized items required for use of equipment that is part of the contract, i.e. print ribbons for validation machines.

\_\_\_ \_\_\_ \_\_\_ 4. If vendor requires County Clerk to use specific material/brands with the equipment supplied such as toner cartridges for printers, it will be provided at cost.

## EQUIPMENT AND SOFTWARE TO BE FURNISHED BY VENDOR

**[The following items should be included in the prices quoted in the Bid Calculations and Pricing section at the conclusion of the itemized specifications.]**

F    P    N

\_\_\_ \_\_\_ \_\_\_ 1. File server(s) with color monitor and industry standard back-up for data; should include uninterruptible power supply. File server and components must be rack based and able to manage the Clerk's solution on its own internet.

\_\_\_ \_\_\_ \_\_\_ 2. Five (5) cashier workstations. Each workstation should include: monitor; PC; keyboard; mouse; scanner; printer with check endorsement and receipt printing capabilities; automated cash drawer; label maker; bar-code hand scanner; and UPS battery backup.

\_\_\_ \_\_\_ \_\_\_ 3. Two (2) pistol permit workstations. Each workstation should include: monitor; PC; keyboard; mouse; scanner; printer with check endorsement and receipt printing capabilities; automated cash drawer; label maker; bar-code hand scanner; UPS battery backup; digital camera with tripod; card printer; electronic fingerprint device; and an electronic signature pad.

\_\_\_ \_\_\_ \_\_\_ 4. Four (4) records management workstations. Each workstation should include: monitor; PC; keyboard; mouse; scanner; printer; label maker; and UPS battery backup. These workstations need to be compatible with the County Clerk's: Fujitsu fi-6770 flat-bed scanner; and Canon iPF765 wide format scanner / printer.

\_\_\_ \_\_\_ \_\_\_ 5. Four (4) public workstations. Each workstation should include: monitor; PC; keyboard; mouse; scanner; and UPS battery backup.

\_\_\_ \_\_\_ \_\_\_ 6. Two (2) high speed, laser jet printers. Printers should have network capabilities allowing both public and employee workstations to utilize them.

\_\_\_ \_\_\_ \_\_\_ 7. One (1) high speed, laser jet printer with duplex capabilities for printing compact books. Printer should have network capabilities allowing any employee workstation to utilize it.

\_\_\_ \_\_\_ \_\_\_ 8. All application software for fee collection and cash control, indexing, imaging, search and report generation. All application software will meet the requirements of New York State statutes and Essex County. [Detailed specifications for components are outlined below]

\_\_\_ \_\_\_ \_\_\_ 9. During contract vendor will include all necessary system storage, even if storage requirements exceed initial volume estimates.

\_\_\_ \_\_\_ \_\_\_ 10. Vendor will be responsible for maintaining acceptable system/server performance throughout term of agreement, which will include all necessary hardware/software upgrades/additions if needed.

## DATA CENTER/HOSTING FACILITIES

F    P    N

\_\_\_ \_\_\_ \_\_\_ 1. Vendor will host system from a certified data center providing 24/7 operations support. The data center must be part of the vendor organization.

\_\_\_ \_\_\_ \_\_\_ 2. Data center must have alternative power sources, ensuring 24/7 operations.

\_\_\_ \_\_\_ \_\_\_ 3. Data center must be a secure facility and have video monitoring as well as authorized personnel only at processing facility.

\_\_\_ \_\_\_ \_\_\_ 4. Data center must host other counties' systems and have a proven track record in providing hosting and administrative services. [Provide supporting documentation to support full compliance response.]

\_\_\_ \_\_\_ \_\_\_ 5. Vendor must provide references demonstrating similar services from three (3) or more county customers.

\_\_\_ \_\_\_ \_\_\_ 6. System must be administered by certified operators.

#### MAINTENANCE AND SUPPORT SERVICES

**[Vendor must include the following support to the County in the bid prices quoted.]**

F P N

\_\_\_ \_\_\_ \_\_\_ 1. Software loading of the initial installation and support throughout the duration of the initial project.

\_\_\_ \_\_\_ \_\_\_ 2. Vendor will provide continued software/hardware maintenance and support during the contract period.

\_\_\_ \_\_\_ \_\_\_ 3. Vendor will provide toll free telephone and e-mail support.

\_\_\_ \_\_\_ \_\_\_ 4. Vendor will provide sufficient hours of training and re-training of County Clerk's staff for maximum efficiency and use of system operations. Training time will be scheduled for abstracters, surveyors and attorneys in using the system at a time to be mutually agreed upon with County Clerk and vendor.

\_\_\_ \_\_\_ \_\_\_ 5. Vendor will schedule on-site support visits to review implementation and use on a routine basis.

\_\_\_ \_\_\_ \_\_\_ 6. Vendor will supply user manuals as necessary for system components.

\_\_\_ \_\_\_ \_\_\_ 7. Vendor will hold periodic user group meetings at an accessible location to review system, discuss updates, and present future trends with counties employing similar systems.

\_\_\_ \_\_\_ \_\_\_ 8. Vendor will provide for off-site data storage.

#### SPECIFICATIONS FOR MANDATORY MICROFILM PROCESSING AND STORAGE SERVICES

F P N

\_\_\_ \_\_\_ \_\_\_ 1. Vendor will use 16 mm archival film for recording which shall be spooled in lengths of approximately 215 feet.

\_\_\_ \_\_\_ \_\_\_ 2. The film will be capable of resolving at least 180 lines per mm and shall carry the NBS symbols of approved safety archival base.

\_\_\_ \_\_\_ \_\_\_ 3. Vendor shall maintain at least two deep well microfilm processors with auto replenishment.

\_\_\_ \_\_\_ \_\_\_ 4. Vendor shall certify upon request at any time during the life of the contract, that all film has been processed in a continuous film processor and that daily tests of hypo-content proved that none of the County's film has been reading in excess of .07 mg/sq. inch using the methylene blue test.

\_\_\_ \_\_\_ \_\_\_ 5. Vendor must subscribe to the EPM (Eastman Park Micrographics, f/k/a Kodak Microfilm Processing) Fuji, or the equivalent program (specify and/or describe if using other source) to ensure that all processed microfilm is routinely quality-checked for residual trisulfates, density and resolution. The vendor shall submit copies of all results of such tests to the County Clerk if so requested.

\_\_\_ \_\_\_ \_\_\_ 6. Vendor must provide a humidity and temperature controlled environment for proper storage of microfilm.

\_\_\_ \_\_\_ \_\_\_ 7. The silver-halide film must be kept at a registered archival storage facility. All moving and storage expenses are to be the responsibility of the vendor within the quoted price. The County will be advised of the facility, its address, and contact point.

\_\_\_ \_\_\_ \_\_\_ 8. The provider will supply, at no additional charge, missing or destroyed pages and/or books immediately upon demand. The missing pages or books include, but are not limited to, those pages and books stolen or mutilated from the books in the County Clerk's possession. [Note: This applies to occasional missing pages or books, not to any catastrophic occurrence or total loss.]

#### SPECIFICATIONS FOR DATA ARCHIVING AND DISASTER PREPAREDNESS SERVICES

F P N

\_\_\_ \_\_\_ \_\_\_ 1. Qualified operators only will be responsible for customer data.

\_\_\_ \_\_\_ \_\_\_ 2. County data will be examined by software designed to ensure that all of the proper record fields have been captured correctly.

\_\_\_ \_\_\_ \_\_\_ 3. All County data will be automatically backed-up on a precise rotation schedule. On a daily basis, the County's entire database of index and image data shall be saved to backup media.

\_\_\_ \_\_\_ \_\_\_ 4 In the event of a natural disaster or catastrophic event affecting vendor's hardware in the County Clerk's Office, vendors' technicians shall be onsite within 24 hours to provide technical support.

\_\_\_ \_\_\_ \_\_\_ 5. Original data tape will be sent to a secure underground storage facility approved by the County Clerk. Preference will be given to vendors who provide this service as part of the base contract; however, if said archival storage will be charged separately to the County Clerk, vendor will specify the approximate cost and the storage facility to be used.

\_\_\_ \_\_\_ \_\_\_ 6. Once a year at the end of fiscal and/or calendar year, all Fee/Cashiering data will be archived to media and sent to off-site storage in a certified, underground, archival storage facility. [See item directly above for details as to the archival storage.]

\_\_\_ \_\_\_ \_\_\_ 7. All tapes will be maintained and inspected annually to assure the life of the archived data. The vendor shall follow all ANSI [American National Standards Institute] recommended procedures for archiving magnetic data.

\_\_\_ \_\_\_ \_\_\_ 8. Essex County's data and images will remain the property of Essex County at all times regardless of storage location. No data or images will be released to a third party without explicit written approval of the County Clerk.

\_\_\_ \_\_\_ \_\_\_ 9. The vendor will guarantee upward compatibility of data, both magnetic and imaging, as new technology is developed and adopted by vendor. If a new, superior technology for data archiving is invented and gains widespread usage, the vendor will ensure that the County's data can be migrated to the new technology for optimal long-term protection and security.

\_\_\_ \_\_\_ \_\_\_ 10. In conjunction with archive storage and protection, the vendor will also provide disaster recovery services. In the event of a major disaster, the vendor shall at all times be prepared to replace and/or restore all the County's historic and current databases under its control. Disaster recovery services will be mutually agreed upon between vendor and County Clerk with advance notice as to potential cost and timeline.

\_\_\_ \_\_\_ \_\_\_ 11. Vendor will provide all media necessary for archival/backup services.

\_\_\_ \_\_\_ \_\_\_ 12. Vendor will provide off-site backup in the event of a disaster in the County Office. [Explain the process that you will propose.]

\_\_\_ \_\_\_ \_\_\_ 13. Vendor shall demonstrate successful Annual Disaster Recovery test results of proposed system.

*Vendor Note: The sections that follow represent specific functional requirements and components for the new system. Vendor must respond to each numbered item within each section using the following codes. Any explanation should be included under the requirement in bold print or on an attached, labeled sheet.*

## **Response Code**

## **Meaning**

**Y**  
**U**

This feature/function is provided in the current release  
This feature/function is provided through another means  
[Requires explanation and/or source]

- |          |  |
|----------|--|
| <b>F</b> | This feature/function is to be provided in a future product to be released and/or developed later. [ <i>Provide anticipated date</i> ] |
| <b>M</b> | Modification would be required at an additional cost<br>[ <i>Provide estimated cost</i> ]  |
| <b>N</b> | This feature is not provided   |

## GENERAL SYSTEM/SOFTWARE REQUIREMENTS

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ Vendor system must be a totally integrated system. Proposed modules must be seamlessly integrated to share the same data and eliminate redundant entries.
2. \_\_\_\_\_ System must provide functions to minimize number of keystrokes, i.e. the ability to duplicate field entries within same document and between different documents.
3. \_\_\_\_\_ Vendor system will offer optional modules that will integrate with the base land and court records modules; e.g. electronic endorsement page to feed into Fee System and option for auto-assisted indexing to feed from scanning to indexing module.
4. \_\_\_\_\_ All indexing modules throughout the system must operate in the same general manner [entry, verify, approve, and merge] allowing for consistency and ease of cross-training of staff between areas of responsibility.
5. \_\_\_\_\_ All modules shall be configurable.
6. \_\_\_\_\_ System must be table-driven for all major elements, with tables having virtually unlimited capacity and being customer maintainable. The tables should include, but not be limited to, attorneys/law offices, municipalities, corporate/business names, record and return names, charge accounts, common names, fee types, notations (such as notary public remarks, passport transmittal information), and document types that can be modified by user with appropriate level of security. Tables must be usable during maintenance function.
7. \_\_\_\_\_ System must generate a numbering protocol for items including, but not limited to: receipts, lien filings, transfer tax, mortgage tax serial numbers, book and page numbers, judgments, pistol permits, court files etc. The system must roll over these numbers as scheduled or mandated by the State.
8. \_\_\_\_\_ System must allow staff to make modifications, adjustments and deletions to indexing and cashiering records in daily files without support intervention; however, for security purposes, the system needs to require support intervention for the deletion of records that are part of merged history. An audit trail for any such changes is necessary that will track the date and user ID of the person making the change and provide the ability to print a report of all changes made.
9. \_\_\_\_\_ System must have a simple user interface that is easy to learn and operate by a user with minimal PC and Microsoft Windows skills.

10. \_\_\_\_\_ System must allow the operator to obtain screen prints of all screens for the public and for County Clerk staff use. Payments from the general public shall be accepted and entered through the cashiering/fee system module; however, the system must also allow user IDs to be assigned to title companies, surveyors, and attorneys for the purpose of automatic billing for prints made from the public inquiry mode.
11. \_\_\_\_\_ System shall include editing and cross-checking of required entries, i.e. an additional response to confirm canceling a transaction or a set of transactions.
12. \_\_\_\_\_ System must be expandable to meet future growth needs. System document storage will be expanded to accommodate growth for the extent of the contract.
13. \_\_\_\_\_ System must allow for routine backup of its components on a daily, weekly, monthly and annual basis.
14. \_\_\_\_\_ System must be menu-driven. Supervisors and users should have different menus and options, i.e. a security component shall allow the County to control user access to all information and screens. However, a hot key navigation shall be available as applicable. Security profiles will be established for users that restrict access to specific types of activities and material.
15. \_\_\_\_\_ System must allow for simultaneous access to the County's computer network, functions and systems and for multiple PC system workstations.
16. \_\_\_\_\_ Essex County does not expect a system to be so unique that it complicates the ability of the vendor to provide support and service to its programs. A system should, however, be flexible enough to adapt to any changes in New York State statutes or to Essex County's rules/requirements without added cost to the County.
17. \_\_\_\_\_ System should provide for the ability to redact pre-determined information without altering the original document.
18. \_\_\_\_\_ System should have ability to enter or change fields on multiple documents having the same information through duplication or repeat function.
19. \_\_\_\_\_ System shall differentiate between all party names by code and/or search, i.e. grantor and grantee, plaintiff and defendant, debtor and creditor, etc.
20. \_\_\_\_\_ System shall have automatic date entry with option to change date.
21. \_\_\_\_\_ System shall have the ability to view code tables from entry screen, pick appropriate code and return to entry screen.
22. \_\_\_\_\_ System shall provide a rejection capability that will generate a response to the submitter of a document or transaction. There shall be a comprehensive rejection response message, or separate messages dependent upon the type of submission, which will allow for a "check-off" format and printing of the form. There shall be a method of tracking rejections and generating a list of same.

23. \_\_\_\_\_ System will allow for separate data elements for surname, given name and middle name for all non-business or corporate names.
24. \_\_\_\_\_ System will provide an unlimited free form remarks field with wrap-around capabilities for all filed and recorded instruments.
25. \_\_\_\_\_ System will provide for fields that will allow an infinite number of entries, i.e. grantor, grantee, cross-references, etc. that can be listed and displayed when indexing and will be evident when searching.
26. \_\_\_\_\_ System must accommodate Internet access for in-office use and for the ability to provide controlled offsite access to either the county's indices and/or documents currently scanned into our system or added in the future.
27. \_\_\_\_\_ System will include the capability to accommodate electronic filing. System must be compatible with NYS Court Electronic Filing System (NYSCEF) and should allow for future expansion to include other forms of filed instruments (NYS Department of Taxation & Finance Tax Warrants).
28. \_\_\_\_\_ System will include the capability to accommodate electronic recording. System must be compatible with established e-Recording vendors (Simplifile, CSC, etc.) and adhere to PRIA standards.

#### CASHIERING, RECEIVING, AND FEE SYSTEM

##### Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ Cashiering Module must require operator to enter document type and number of pages. When recording or filing a document, operator must be allowed to either manually key the document type or invoke the document type table for selection of valid entry. If manually keyed, it must agree with type table.
2. \_\_\_\_\_ Module must reference user-defined table(s) to determine correct calculations for fees and taxes due. The computed fees must be displayed on the cashiering workstation. Each fee should be accessible for display.
3. \_\_\_\_\_ System shall have an option to override and/or exempt the calculated fees.
4. \_\_\_\_\_ For transactions not related to the recording/filing process by statute, the operator must be able to enter as a miscellaneous transaction and manually enter the fee.
5. \_\_\_\_\_ If transaction is not completed, system must provide for it to be "held", i.e. suspended and resumed at a later time, retaining all previously entered information. "Held" receipts must be finished or cancelled by the close of the business day.
6. \_\_\_\_\_ System must automatically assign instrument numbers, serial numbers and book and page numbers. The system should allow for sequential numbering on a receipt by time of entry.



7. \_\_\_\_\_ System must allow for documents to be reviewed in any order before printing a receipt. Documents can be added, modified or deleted. If an adjustment affects the original fees as calculated, they will be automatically adjusted.
8. \_\_\_\_\_ System must allow entry of one transaction for multiple documents that are the same document type, same party names, and number of pages. System should calculate total fee(s) and issue in sequence the required documents numbers for each item in the batch.
9. \_\_\_\_\_ For all fee transactions system must create an audit trail including: operator ID, cash drawer number, date, time, transaction detail, fee amount, document type, instrument type, fee type, book and page, name of person or firm submitting the transaction, payment type, name(s) on check or cash payment, check number, and totals. System must allow for repetition of names on a receipt.
10. \_\_\_\_\_ A remarks field must be available for all transaction types. Specialized remarks, i.e. notary public expiration date, passport info with payments submitted to the U.S. Passport Services, etc. will be able to be printed on the receipt. System will also provide a general remarks capability on the receipt at the conclusion of the receipt process prior to printing.
11. \_\_\_\_\_ For applicable documents, system will automatically require names of the parties which will be retained for recall during final indexing process [requiring no further indexing when that has been completed correctly in the recording phase of cashiering].
12. \_\_\_\_\_ System must recognize multiple payment methods (i.e. cash, check, money order, credit card, debit accounts, ACH) within a single transaction. System should allow entry of miscellaneous revenue and issuance of refunds [with space to explain] within a receipt.
13. \_\_\_\_\_ System must allow for tracking of checks.
14. \_\_\_\_\_ System must support debit or escrow/charge account processing with ability to generate current statement. The system should only allow escrow/charges if balance is above a pre-set amount. On-screen warning should appear if account balance will fall below required minimum.
15. \_\_\_\_\_ After payments are entered, system will allow transaction to be reviewed without requiring re-entry of payments. Cancellation of an entry should be allowed at any point prior to printing of receipt.
16. \_\_\_\_\_ System shall print as many receipts as the submitter requests. Validation of documents will be after printing receipt. Re-prints of a receipt or re-print of validations of documents may be accomplished at any time.
17. \_\_\_\_\_ The detailed receipt shall list all documents recorded/filed in sequential document number order with associated fees for each document, names associated with the document and remarks, if entered.
18. \_\_\_\_\_ System shall print a cover / recording page during the cashiering function. It shall include, but not be limited to, the following fields as applicable: book / page, instrument number, return to, submitted by, document type, municipality, consideration, recording fee breakdown,

mortgage tax breakdown, transfer tax breakdown, number of pages, the County Clerk signature, County seal, and the potential for a barcode. Most fields will have an accessible drop down function to include the common entries, but will allow for user entry if necessary. The cover/recording page shall be printable upon completion of the cashiering function. Document validation will print on the form or separately.

19. \_\_\_\_\_ System shall allow for overage in payment. The system should alert cashier of overage and allow for either keeping or refunding overage.

#### REPORTS AND REPORTING FOR CASHIERING SYSTEM

##### Entry Codes [Y-U-F-M-N]

1. \_\_\_\_\_ All cashiering reports must allow for date range selection to produce daily, weekly, monthly, quarterly, semi-annual and annual reporting as required.
2. \_\_\_\_\_ System must provide receipt reporting. Exact receipt information that was printed for customers' receipts must print through the receipt reporting functions. The detailed receipt information must include, but not be limited to, what portion of each fee was by check, cash, or billed to a "draw down" account. These reporting functions must be available by operator ID, or consolidated over all cashiering operators.
3. \_\_\_\_\_ System must generate a check report. This report should list all check transactions. The information should include, but not be limited to: date, time, operator ID, check number, check amount, submitter, and payer. Totals should print at the end.
4. \_\_\_\_\_ System must provide audit reporting. Audit information to include, but not be limited to: date, time, operator ID, cash drawer number, instrument number(s), book and page number(s), receipt numbers, submitter name, first grantor and first grantee names, document type, payment type, check number, check amount, cash amount, draw down amount, name of payer, refund amount, name of person receiving refund, and void information.
5. \_\_\_\_\_ System must generate a void report. This report should include, but not be limited to: date, time, operator ID, instrument number, book and page numbers, and other transaction detail.
6. \_\_\_\_\_ System must provide a cash balancing report. This report should be available in summary format and in detail format.
7. \_\_\_\_\_ The cash balancing report must include, but not be limited to: totals for County recording fees, totals for transfer taxes, totals for each document type, totals for each payment type, totals for each transaction type, totals for each account type [e.g. State and County], bank deposit amount, and total number of transactions.
8. \_\_\_\_\_ The cash balancing reporting must provide detailed report(s) that include, but are not limited to: date and time, instrument number, book and page number, receipt number, submitter name, document type, number of pages, County recording fee, consideration amount, transfer tax, transaction type, payment type, check number, check amount, cash amount, draw-down amount, and deposit amount.

9. \_\_\_\_\_ System must provide a summary report that shows the total number of documents that were recorded in a user specified date range. Totals should be broken down by document type. Total deed consideration amount for the date range should print as well. This report printed for a year time frame, will assist in assessing the annual workload and audits.
10. \_\_\_\_\_ The following are reports which need to be generated from the Cashiering System on a periodic basis as enumerated:
- A. Transfer Tax Report – NYS Department of Taxation and Finance: Summary of Transfer Tax Documents recorded, amount to be transmitted to State, and amount retained by County. [Monthly]
  - B. RP-5217 Forms Filed – NYS Office of Real Property Services: Summary of number of forms filed for the month with breakdown of State fees and fees retained by County. [Monthly]
  - C. Notary Public Report for Department of State: Number and list by name of Notary Public qualifications filed, amount to be transmitted to State, and amount to be retained by County. [Monthly]
  - D. Cultural Affairs fees collected – NYS Department of Education: Number of documents recorded and filed subject to fee, amount transmitted to State and amount to be retained by County. [Monthly]
  - E. Records Management fees collected – NYS Department of Education: Number of documents recorded and filed subject to fee, amount transmitted to State and amount to be retained by County. [Monthly]
  - F. Mortgage Tax Reports: The following mortgage tax related reports shall be available and have the ability to be extracted by any date range:
    - 1. Mortgage Tax book by date: detailed listing of all mortgages recorded with assigned N.Y.S. mortgage tax number including unapportioned mortgages as required by the State.
    - 2. Apportioned mortgages with detailed listing including held mortgages as required by State.
    - 3. Monthly mortgage tax report with municipal breakdown of amounts and interest apportioned.
    - 4. County fee retention report to submit to state as required.
    - 5. Local mortgage tax report for transfer of funds to appropriate County account including interest.
    - 6. State of New York Mortgage Agency monthly report of amount to be transmitted including apportioned interest.
    - 7. Semi-Annual Mortgage Report for distribution of funds to the towns and city submitted to the State for approval.
  - G. Office of Court Administration report by State object codes for the following fee types: Index Numbers issued (including exempt category), Requests for Judicial Intervention, Notes of Issue, Motions Fees, Jury Demands, Appeals Filed. [Monthly]
  - H. Report to the County Treasurer of Revenues: In a format established by the County Clerk's Office with adjustment category. [Monthly]
  - I. Annual Report of the County Clerk: In a format established by the County Clerk to include revenue totals, amounts transmitted, amounts retained, etc.

- J. Passport Reports – United States Department of State
    - 1. Transmittal Report (format provided by Passport Agency) [Daily] and
    - 2. Journal of Execution Fees Collected Passport [Monthly]
  - K. Federal Tax Liens: Billing summary for transmittal to the Internal Revenue Service. [Monthly]
  - L. System must provide ability to add interest apportioned by the County Clerk to various reports, some as detailed above, and others as needed.
11. \_\_\_\_\_ System must provide ability to access and produce receipt and/or receipt record by receipt number or date search.
12. \_\_\_\_\_ System must provide an employee productivity report that shows the total number of documents handled by user ID during a user specified date range. This report should include, but not be limited to the following totals: cashiering, creating, indexing, verifying, scanning and mailbacks.

#### LAND DOCUMENT INDEXING AND SYSTEM FUNCTIONS

##### Entry Code [Y-U-F-M-N]

- 1. \_\_\_\_\_ Once a document is entered through Cashiering, all relevant data must be available to automatically pass through to the Indexing Module in order to avoid re-keying of index data.
- 2. \_\_\_\_\_ Indexing Information to be entered will include, but not be limited to:
 

Document Number	Recording Date
Document Type	Consideration or Mortgage Amount
Party Names and Addresses	Book and Page Numbers
Series (Grantor/Grantee, etc.)	Individual, Corporate or Business Names
Document Date	Property Location
Cross References	Associated Document by Liber & Page
- 3. \_\_\_\_\_ Vendor must offer auto-assisted indexing to further remove necessity for duplication.
- 4. \_\_\_\_\_ In addition to the surname, given name and middle name fields, the system must provide additional field for name suffixes, e.g. Executor, Power of Attorney, etc.
- 5. \_\_\_\_\_ System must allow for duplication of any information from one document to the next with override capability and the ability to retrieve party(s) or case captions from previously filed/recorded documents.
- 6. \_\_\_\_\_ System must provide edit controls at the field level so that incomplete or invalid data must be verified before the user can continue to the next step.

7. \_\_\_\_\_ System must automatically format fields such as dates and amounts so that staff is not required to enter punctuation.
8. \_\_\_\_\_ System must use look up tables wherever possible to increase speed and accuracy. Entering first portion of a name the table should automatically start with that combination. User must be able to return to entry screen from look-up tables.
9. \_\_\_\_\_ The indexing fields must be dynamically linked to the instrument type, i.e. the system should only bring up index fields that are pertinent to the specific instrument type currently being entered.
10. \_\_\_\_\_ System must produce a verification report definable to specific recording date and including all indexed fields.
11. \_\_\_\_\_ All edit rules and edit checks, user-defined tables, and field duplication features that are available in the Indexing Module should also be available in the Verification Module.
12. \_\_\_\_\_ System must track all changes made to a completed document by date, time, operator ID, and the original and new values.
13. \_\_\_\_\_ System must relate subsequent documents to the original document (e.g. Discharge of Mortgage to Mortgage) and allow for toggling between related documents.

Note: The indexing items cited above for land records shall also apply to the specialized functions that follow for specific documents types.

#### LIEN SYSTEM FUNCTIONS

##### Entry Codes [Y-U-F-M-N]

1. \_\_\_\_\_ System must relate subsequent Lien activity [amendments, continuations, terminations, etc.] to the original filing and allow for toggling between related documents.
2. \_\_\_\_\_ Fields for entry will include, but not be limited to: instrument number, book and page, recording date, document type, document date, parties [designated as lienor and lienee], addresses, amount, property description and release date.
3. \_\_\_\_\_ Verification procedures as cited in #10 – 12 in Land Document Indexing and System Functions above shall apply to the Lien System.
4. \_\_\_\_\_ Lien reports should include: Index, numeric, verify, document type listing and missing instruments.

#### JUDGMENT SYSTEM FUNCTIONS

#### Entry Codes [Y-U-F-M-N]

1. \_\_\_\_\_ Fields for entry include, but are not limited to: parties [designated as creditor and debtor], addresses, amount, court, index number, date docketed, recording date, satisfaction date, attorney information and related documents. If transcribed to additional counties, there must be space to show that fact.
2. \_\_\_\_\_ System must be able to enter in index and show satisfaction [including partial, and unsatisfied] by satisfaction, execution, court order, [vacature by court or N.Y.S. Dept. of Taxation and Finance], and by certificate of disposition from another county. The judgment status must be visible on the initial judgment screen.
3. \_\_\_\_\_ System must relate subsequent Judgment activity [Partial Satisfactions, Satisfactions, etc.] to the original Judgment and allow for toggling between related documents.
4. \_\_\_\_\_ System must be able to produce transcripts and certificates of disposition as requested according to New York State and Essex County specifications.
5. \_\_\_\_\_ System must be able to produce income or property executions according to New York State and Federal statutes and maintain a record of same issued.
6. \_\_\_\_\_ Verification procedures as cited in #10 -- 12 in Land Document Indexing and System Functions above shall apply to the Judgment System.
7. \_\_\_\_\_ Judgment reports must include: index, numeric, verify, missing instruments, index count and satisfaction count.

#### PISTOL PERMIT SYSTEM FUNCTIONS

#### Entry Codes [Y-U-F-M-N]

1. \_\_\_\_\_ Application: Entry information shall include, but not be limited to: mental health response, Federal Bureau of Investigation fingerprint return, and New York State Department of Criminal Justice Services fingerprint return. This will provide a response checklist that will be used to track applications in process which should indicate when all areas are complete, and then be able to transfer to the pistol permit files.
2. \_\_\_\_\_ Fields for permit entry include, but are not limited to: name [surname, given name, middle initial], date of birth, hair and eye color, gender, place of birth, citizenship, race, address, permit number, date of issuance, NYSID number, employer [name, address, and occupation], handguns [make, model, caliber and serial number], status of permit, duplicates issued/date, transfer (to include date in and out and county license number), issuing judge, arrest history and action taken, and remarks. Gunsmith or Dealer information shall also include type of business and location, and the date of expiration. Determination of which information will be visible in the initial screen will be decided in consultation with vendor.

3. \_\_\_\_\_ System must be able to provide a printed, history report. Handguns owned or co-registered must be accessible in a dual [acquired and disposed of] list format by date acquired to include where or who acquired from and that party's permit number. When a weapon is sold or transferred, the system will move the record of that handgun to the "disposed of" category and show who it was transferred to and the date, but will not remove the handgun from the listing.
4. \_\_\_\_\_ System must have the ability to capture digital photographic images, electronic signatures, and electronic fingerprints.
5. \_\_\_\_\_ System must have the ability to create and print plastic identification cards.
6. \_\_\_\_\_ System must use dropdown windows wherever possible to increase speed, accuracy and consistency. User must be able to view code tables from the entry screens and select a code and return to the entry screen.
7. \_\_\_\_\_ Code tables must include, but not be limited to, type of weapon [revolver, automatic, semi-automatic], manufacturer, caliber, ownership status [primary or secondary], purpose(s) of permit [hunting, target shooting, competition, collection, trapping, recreation, business or employment, personal protection], status [active, deceased, revoked or suspended].
8. \_\_\_\_\_ System must be able to produce a pistol permit amendment form in duplicate in a format and with information as required by the New York State Police.
9. \_\_\_\_\_ System must provide edit controls at the field level so that incomplete or invalid data must be verified before user can continue to the next entry step.
10. \_\_\_\_\_ System must include search capability by applicant name, permit number, handgun serial number, address, make and/or model, social security number, NYS ID number, date range (applied / issued), amendment type and permit status.
11. \_\_\_\_\_ System will provide a flag on the record to indicate: Active, Suspended, Revoked, or Inactive (surrendered or deceased).
12. \_\_\_\_\_ Verification procedures as cited in #10 – 12 in Land Document Indexing and System Functions above shall apply to the Pistol Permit System.
13. \_\_\_\_\_ Reports shall be available for: monthly summaries of new applicants, amendments, and dealers; handgun history by applicant; mailing labels; summary by month or year for number of transactions process by original, amendment, duplicate, transfer, and suspended/revoked.

#### VETERANS' CARDS SYSTEM FUNCTIONS

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ System must have the ability to create and print plastic identification cards.
2. \_\_\_\_\_ System must have the ability to capture digital photographic images.

3. \_\_\_\_\_ Fields for entry will include, but not be limited to: name [surname, given name, suffix], address, instrument number, and book and page.

4. \_\_\_\_\_ System must include search capability by veteran name, instrument number, and book and page.

#### COURT FINES AND SURCHARGES SYSTEM FUNCTIONS

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ Fields for entry will include, but not be limited to: names [surname, first, middle, suffix], case number, total fine amount due, sentence date, judge name, description of charges, and fine balance (fine balance should auto adjust as payments are made).

2. \_\_\_\_\_ System must have the ability to accept payments in cashiering stage to be applied to individual court fine / surcharge account balances.

3. \_\_\_\_\_ System must allow the breakdown of total fine due into individual fine codes (e.g. \$100 fine = \$50 DWI; \$25 DNA; \$25 CVAF) and automatically apply payments in order of NYS OCA determined fine payoff schedule (CVAF – paid 1<sup>st</sup>; DNA – paid 2<sup>nd</sup>, etc.).

4. \_\_\_\_\_ Reports shall be available for:

1. Open Court Fines – by date range
2. Fine Payments Made – by date range
3. Closed Court Fines – by date range
4. DWI Fines Paid – by date range
5. Fine Detail by Case – by date range
6. Fine Detail by Case – by case number
7. Payments by Case – by case number

5. \_\_\_\_\_ System must include search capability by case number, surname, first name, judge, sentencing date, and fine status.

#### COURT INDEXING AND DOCKETING SYSTEM

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ Information must be automatically passed from fee system to indexing system eliminating re-keying of index data.

2. \_\_\_\_\_ Surname and given name must be treated as separate data elements from corporate names. System must have additional field for suffixes (such as executor, power of attorney, etc.) which do not affect the sorting of records or the index. Unlimited plaintiff and defendant names must be allowed including also known as names. Must be able to add names at later time for amended court actions.



3. \_\_\_\_\_ For indexing purposes, the system must allow duplication of any information from one document to the next with override capability and ability to retrieve party(s) or case captions from previous filed document.
4. \_\_\_\_\_ Staff must be able to make corrections/edit work before it becomes permanent/merged record, allowing users with proper security to update fields, including records verified to the public. All data entered should allow for multiple people to verify data entered by someone other than original data entry operator. Individual transaction batches should be provided to each user. System must provide edit controls at the field level so that incomplete or invalid data must be verified before user continues to next step.
5. \_\_\_\_\_ System must provide lookup tables whenever possible to increase speed and accuracy of data entry. Users must be able to enter the first portion of name/code and the search listing will start with the portion entered. Users must have ability to view code tables from entry screen, select a code from the table and return to entry screen.
6. \_\_\_\_\_ System must provide the following fields for initial screen: index number, indictment/superior court information number, file number, plaintiff/petitioner, defendant/respondent, attorney(s)/law firm, case type (i.e. tort, contract, matrimonial, etc.), year/date, address, amount, etc.
7. \_\_\_\_\_ System must allow addition of minute information pertaining to any case that will itemize all documents filed. User should be able to select from table action/instrument codes for consistency, but have the option to enter manually or add to existing code. Minutes should be displayed in chronological sequence by date of entry and numbered to correspond with individual documents in case file. While most cases have a limited number of items filed, the system must be able to list an infinite number of items. The System will allow for printing out the minutes of items filed and provide a date for that listing.
8. \_\_\_\_\_ System must be able to seal an individual name and/or an individual minute/document, as well as an entire case. It must be able to automatically seal an entire case file with use of specific titles, e.g. youthful offender, and to seal all minutes by specific case type, e.g. matrimonial which must not be viewable without proper security.
9. \_\_\_\_\_ Minutes for Supreme and County courts must have unlimited document type entries. Certain document types should create an additional field screen or subscreen for required information.
10. \_\_\_\_\_ System must permit certain fields of information to automatically be filled in by entry of document/case type, e.g. criminal cases always identify the court as County.
11. \_\_\_\_\_ Court reports must include: missing case number, index, numeric, action.
12. \_\_\_\_\_ System must have ability to accept electronic filings in coordination with the Office of Court Administration system.
13. \_\_\_\_\_ Verification procedures as cited in #10 – 12 in Land Document Indexing and System Functions above shall apply to the Court Indexing and Docketing System.

14. \_\_\_\_\_ System must have ability to relate docket to individual documents [Lis Pendens, Judgment] and allow for toggling between the two.

#### DOCUMENT SCANNING AND IMAGING

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ System must support multiple scanning stations. Images must be accessible concurrently by multiple work stations.
2. \_\_\_\_\_ System must use Group IV TIFF format/compression standards for image storage and retrieval.
3. \_\_\_\_\_ System must support flatbed, simplex, duplex and high speed barcode scanning with scanners capable of scanning an 8 ½" x 14" page.
4. \_\_\_\_\_ System must support scanning before or after entry of index information and allow split-screen viewing of an image and its index.
5. \_\_\_\_\_ System must allow documents to be scanned in any order into a batch, i.e. documents do not have to be scanned in consecutive document number order. System must automatically link images to associated recording information captured during the initial document recording. System should match control numbers with page numbers when back-scanning older indices.
6. \_\_\_\_\_ System should alert user if it detects a document already scanned.
7. \_\_\_\_\_ During the scanning function, system must automatically verify document page counts with page count entered during recording process. Operator should be alerted of discrepancies in page count.
8. \_\_\_\_\_ System must allow user to view image immediately after it is scanned.
9. \_\_\_\_\_ System must allow operator to delete, insert or append pages without having to rescan entire document.
10. \_\_\_\_\_ System must provide document and image verification during scanning process which shall include, but not be limited to:
  - A. Verification of clarity of image with re-scanning as required.
  - B. Image enhancement tools for de-skewing, de-speckling, line enhancing.
11. \_\_\_\_\_ System must allow document scanned to be rotated, moved on screen, scrolled page by page, or displayed in reverse video.
12. \_\_\_\_\_ Prior to any re-scanning of a page or document, the system must require operator to indicate whether prior image(s) should be overwritten.

13. \_\_\_\_\_ Operator must have ability to reject individual documents from batch without having to rescan entire batch.
14. \_\_\_\_\_ System must allow the importation of scanned images from County owned devices (e.g. County Clerk's wide format scanner).
15. \_\_\_\_\_ System must support large image files (e.g. survey maps, court exhibits with color photos).
16. \_\_\_\_\_ System must have Hidden Image capabilities allowing documents with administrative usefulness to be scanned and stored, but not merged, with a recorded / filed document image (e.g. RP5217 with pertinent deed)

## DOCUMENT RETRIEVAL AND PUBLIC ACCESS

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ General inquiry must be accessible from every system terminal and not affect the functionality of the system. County Clerk searches conducted for the general public must be created, maintained and tracked with the ability to generate a fee for the service.
2. \_\_\_\_\_ System should allow user to search for information in a variety of formats and list the search options available on the screen to include, but not be limited to:

Individual Name, Business Name or Corporation for any party to transaction [grantor/grantee, mortgagor/mortgagee, plaintiff/defendant, creditor/debtor]	
Book (Liber) and Page Number	Document Number
Index or File Number	Location of Property by Town
Free Form and User Defined Searches	

The various search types shall have the ability to be limited by such items as document type, date range, land, court, etc.

3. \_\_\_\_\_ System must provide the ability for the County Clerk to set up profiles with selective and limited authority to search data from outside the County office.
4. \_\_\_\_\_ Once a search is initiated, entries that fit the criteria selected should be displayed with information such as names, book and page, file number and date filed. From here an entry must be selected to access the full detail.
5. \_\_\_\_\_ System should have a pull down screen that will provide the date range of all permanent records by type of record, i.e. deeds, mortgages, judgments, etc.
6. \_\_\_\_\_ System must allow option to view stored images and have capability to select more than one document from the search results list for image display without returning to the entire search listing.
7. \_\_\_\_\_ System must provide for multiple workstations to print to any network printer as designated by County Clerk or as selected by user.

8. \_\_\_\_\_ System options must allow for public printing to be held in queue until payment is made to a County Clerk employee.
9. \_\_\_\_\_ System must provide for a log-on process to authenticate to the server. The County Clerk will issue and maintain these public log-on credentials whether or not they are charging for searching, viewing and/or printing of images in the office.

#### CUSTOMER PAYMENT ACCOUNT SYSTEM

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ Fields for entry will include, but not be limited to: name, login, password, address, phone number, email address
2. \_\_\_\_\_ Each customer will be given a unique login and password.
3. \_\_\_\_\_ The County Clerk will have the ability to restrict which employees have authorization to create, modify and/or view accounts.
3. \_\_\_\_\_ System will allow for pay-down accounts.
4. \_\_\_\_\_ System will automatically deduct accounts as prints are made. Customer Account current balances will immediately reflect deductions.
5. \_\_\_\_\_ System will notify customers when account hits a minimal amount.
6. \_\_\_\_\_ System will include activity log and view/print receipt function.
7. \_\_\_\_\_ System will allow County Clerk employees to void and/or modify customer account transactions in the cashiering / receipting function.

#### PRINTING REQUIREMENT AND SERVICES

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ System must provide print functions that include, but are not limited to:  
Printing of entire document and all pages      Printing of retrieved index list  
Printing of selected document pages      Screen print of current screen
2. \_\_\_\_\_ System must provide the ability to print all imaged pages of a document without actually looking at each document page.
3. \_\_\_\_\_ System must provide the ability to queue prints to specific printers and the ability to specify default printers.
4. \_\_\_\_\_ System must integrate and support pay-per-print solution.

5. \_\_\_\_\_ Print services must be capable of supporting industry standard printers such as Hewlett Packard.
6. \_\_\_\_\_ Printers must be individually addressable by the users as defined by the System Administrator and not all printers are to be available to users unless so designated by the System Administrator.
7. \_\_\_\_\_ System should provide the ability to print 8.5" x 11", and 8.5" x 14" copies with default size capability provided.

#### INTERNET CAPABILITY REQUIREMENTS

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ System must have availability of a browser-based public inquiry module.
2. \_\_\_\_\_ System must provide ability to host index and/or image data.
3. \_\_\_\_\_ Vendor must provide a secure website for established County customers for land/court document index and image data availability.
4. \_\_\_\_\_ System must allow for user specific restrictions to data (e.g. Judges need access to criminal court files; public do not). The County Clerk will determine levels of access.
5. \_\_\_\_\_ Vendor must allow County to establish fees for online access the records.
6. \_\_\_\_\_ Vendor must provide County with ability to generate revenue via its web based public inquiry system and have the ability to accept and process credit card payments from public searchers with no administrative charge to the County.
7. \_\_\_\_\_ The web-based public inquiry must be similar in function for searches performed in the County office.
8. \_\_\_\_\_ Vendor's web-based system must be hosted by a qualified data center.
9. \_\_\_\_\_ Vendor must provide help desk support for public users of the system.

#### DATABASE MANAGEMENT

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ System must utilize ODBC compliant database.
2. \_\_\_\_\_ For every document recorded or filed, depending on the type of document, the system must be able to capture and store, but not be limited to, the following:

Instrument number  
Date and time recorded to include seconds  
Book (Liber) and page number

Document type  
Book (Liber) type  
Number of pages

Consideration, mortgage or judgment amt.	Property address
Name and return address	Submitter and address
Party types (varies by document type)	Party "also known as" names
Corporation/business name(s) [Note: It will be important to distinguish between individual and corporation/business names during data entry.]	
Date of last change to entry [For changes after document is verified and merged.]	

3. \_\_\_\_\_ System must provide a user maintained table for establishing customer information and should be able to capture sufficient data to support draw-down, debit and credit transactions with ability to produce mailing labels.
4. \_\_\_\_\_ System must have ability to compute total amount to be charged to record a specific document type based on taxes and fees that make up the total.
5. \_\_\_\_\_ System must allow the County Clerk to define the recording fees as "fixed" and/or fee calculations, allow for exemption of the fee, and ability to enter fee manually.
6. \_\_\_\_\_ Recording and filing fees by document type must be definable on per-page charge, per name charge or flat fee charge.
7. \_\_\_\_\_ System should provide for a base rate charge for a base number of pages, names, etc. and then calculate the additional fees for additional pages or names beyond the base fee.
8. \_\_\_\_\_ System must provide the ability to enter and store unlimited names for a single document or case type.
9. \_\_\_\_\_ System database should support modification of previously verified data with appropriate level of security.
10. \_\_\_\_\_ System must provide ability to establish security profiles for users that can be used to restrict access to specific types and groups of documents.
11. \_\_\_\_\_ Security access profiles must be capable of restricting specific types of activities, including, but not limited to: entering new documents, updating documents, indexing documents, viewing document images, viewing secured documents and updating secured documents.
12. \_\_\_\_\_ System must provide ability to restrict public access to "confidential" indexed and/or imaged documents.
13. \_\_\_\_\_ System must provide ability for other County departments to access the browser-based public search.

#### NETWORK REQUIREMENTS

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ System must be integrated with all components.
2. \_\_\_\_\_ System must be compatible with TCP/IP network standards.

#### DESKTOP CAPABILITY

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ All desktop workstations must be IBM-PC compatible.
2. \_\_\_\_\_ System must support a minimum of Microsoft Windows 10 for all end user components running on the desktop.
3. \_\_\_\_\_ User functionality must include keyboard, mouse and scanner functionality.

#### BACK-UP AND RECOVERY

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ System must provide the ability for full back-up and recovery in the case of any type of malfunction, i.e. hardware and/or software.
2. \_\_\_\_\_ System must provide back-up for index and image data and allow the System Administrator to control and adjust back-up procedures.
3. \_\_\_\_\_ System must keep image and index databases on-line indefinitely.
4. \_\_\_\_\_ Vendor must attach their back-up protocols and procedures as an appendix to this proposal.

#### SYSTEM ADMINISTRATION AND SECURITY

Entry Code [Y-U-F-M-N]

1. \_\_\_\_\_ System must provide a comprehensive administration and security system.
2. \_\_\_\_\_ System must include an administrator-controlled security feature for access to documents that have been sealed and/or for access-restricted case files.
3. \_\_\_\_\_ Security component must allow the System Administrator to add or define user profiles to control log-on access and utilization. Each user must be assigned a security level that will automatically mask higher-level functions on a hierarchical basis.
4. \_\_\_\_\_ The vendor will maintain all materials, documents (filed or recorded), images, reports, etc. in a secure environment and shall not release or make available to any other party the property of the County of Essex without its knowledge and written consent specifying the exact items or range of items to be released and the party to whom released with address and name of responsible person.

5. \_\_\_\_\_ All records of a confidential nature and sealed or restricted files shall be maintained as such by the vendor and its employees.

*Vendor Note: The items listed below represent requirements for project management activities that must be included with the vendor's solution. Please respond to each numbered item with the following entry codes. For any response in which the vendor will not agree with a specification, vendor must insert a detailed explanation explaining why the vendor cannot or will not agree to the specification.*

**Entry Codes**

**Meaning**

**A**

Vendor meets or will meet this specification

**D**

Vendor cannot or will not meet this specification

**MAP FILING FUNCTION**

Entry Code [A or D]

1. \_\_\_\_\_ System will be able to index filed maps by map number, name of map or subdivision, filed date, municipality, and surveyor.
2. \_\_\_\_\_ System will be able to scan and print maps to scale and attach images to name index.

**PROJECT MANAGEMENT REQUIREMENTS**

Entry Code [A or D]

1. \_\_\_\_\_ Vendor must assign a Project Manager to oversee implementation of project for the length of the contract. This person will be the principal contact point for any system questions related to overall product, requested changes, system changes or upgrades, and/or requested development of new or expanded components. Project manager will be named within two (2) weeks after notification of the contract award.
2. \_\_\_\_\_ Within three weeks after notification of the award, the project manager will meet with the County Clerk and present a tentative schedule for the installation and implementation and of the system. Said schedule will be mutually agreed upon by the County Clerk and the vendor, but shall as near as possible adhere to a **January 1, 2022**, start-up date for the system. To whatever extent this date is not feasible for the vendor, an outline of the possible time frame for installation and implementation shall be submitted with the bid as an addendum.
3. \_\_\_\_\_ The Project Manager may **NOT** be changed without the consent of the County.
4. \_\_\_\_\_ The Project Manager will maintain a complete Project Notebook and Implementation Plan throughout the term of the contract.



5. \_\_\_\_\_ During the implementation of the vendor's system, the Project Manager will provide biweekly reports/meetings and/or conference calls to inform the entire team of the status of the project, as well as any issues that have been reported.
6. \_\_\_\_\_ The Project Manager will be responsible for maintaining Change Request Reports and reporting the status of requested changes to the County Clerk
7. \_\_\_\_\_ The Project Manager will facilitate status meetings as agreed upon with the County and will be on site at the County location as needed.
8. \_\_\_\_\_ The Project Manager will schedule all implementation and training in consultation with the County Clerk and/or his Deputy at the mutual convenience of both parties.
9. \_\_\_\_\_ The successful vendor will be presented with a Checklist of anticipated services and complete installation/implementation of components. The County Clerk will not accept delivery of the system until the Checklist is completed and the system operating successfully. Any variation in completion of checklist items must be in writing and approved by the County Clerk.

#### RE-INDEXING SPECIFICATIONS

The vendor must be able to perform the following services and supply pricing as required on the pricing page. Any explanation should be inserted under the requirement.

Entry Code [A or D]

1. \_\_\_\_\_ Vendor must format the newly keyed index entries regardless of the time period as far as possible to meet the County's standard for database records so that the new entries smoothly integrate with existing data.
2. \_\_\_\_\_ Re-indexing must include the application of a single set of indexing conventions, allowing documents recorded during the past period to be indexed using today's current indexing principles.
3. \_\_\_\_\_ The vendor personnel who perform re-indexing functions shall be trained in the complexities of different land and court record instruments and documents. They shall also be skilled in applying accuracy-auditing techniques and quality-control strategies that are unique to the land and court records industry. Upon request the vendor will supply the County with the experience level and background of employees assigned to this project.
4. \_\_\_\_\_ The County Clerk will provide a summary of any unique qualities, requirements or name characteristics that should be observed in the particular form or type of documents to be re-indexed in order to promote the maximum consistency for entries with currently existing indices.
5. \_\_\_\_\_ Document names, codes or abbreviations will be coordinated with existing use in the County Clerk's records.
6. \_\_\_\_\_ Indexing and/or re-indexing services must be performed by the bidding vendor and may not be subcontracted.

7. \_\_\_\_\_ Vendor must list a minimum of three references where similar re-indexing services have been supplied including a contact name, address and telephone number with the dates that the re-indexing services were performed.

#### MICROFILM TO DIGITAL IMAGE CONVERSION

Entry Code [A or D]

1. \_\_\_\_\_ For any conversion project ordered, the vendor shall provide a project time line for completion of the service.
2. \_\_\_\_\_ Vendor shall have capability of converting both 16mm and 35 mm film to digital image.
3. \_\_\_\_\_ Vendor shall provide procedures for checking quality and readability within the price quoted.
4. \_\_\_\_\_ Vendor will be responsible for linking the image to the indexing database.
5. \_\_\_\_\_ Vendor shall report any images to the County Clerk that are of poor quality on the film at the close of the project and any that are missing from the film.
6. \_\_\_\_\_ Vendor must tag images by year, book (Liber) and page, and instrument number [If original document had an instrument number.]
7. \_\_\_\_\_ Vendor must have secure storage for County film and provide proper film handling guidelines during the course of the project.
8. \_\_\_\_\_ Vendor must have capability for any conversion project to provide archival film for both redacted and for un-redacted images.
9. \_\_\_\_\_ Vendor must provide three references of customers using their microfilm to image services including contact name, address, and telephone number.

#### UPGRADES AND MAINTENANCE

Entry Code [A or D]

1. \_\_\_\_\_ All upgrades to the system and annual maintenance must be included as part of the contract for the system at no additional cost.
2. \_\_\_\_\_ All changes in New York State statutes which result in changed or new fees to be administered by the County Clerk will be incorporated into the contracted system by the vendor at no additional cost to the County.

3. \_\_\_\_\_ For any system upgrade that vendor cannot provide at no additional cost, the County will have the option to accept the upgrade or remain with the current system.
4. \_\_\_\_\_ All maintenance on the hardware components of the system as outlined previously in these specifications will be handled by the vendor. The County will not be required to deal directly with any supplier or hardware manufacturer. Maintenance required to keep the functionality of the equipment operational will be performed within a 24 hour time frame discounting Saturdays, Sundays and holidays. If equipment cannot be repaired in this time frame, replacement equipment will be supplied by the vendor to keep the system operational.

#### INTERFACE REQUIREMENTS

The selected system should have the capability to interface with the current Essex County Computer System/Network as described below:

Entry Code [A or D]

1. \_\_\_\_\_ Real Property Tax Services: The public and staff at the County Clerk's Office should be able to access the RPS Imagemate system for tax and assessment information from the same workstations as the County Clerk's System.
2. \_\_\_\_\_ Real Property Tax Services: The public and staff at the County Clerk's Office should be able to access the tax map system from the County Clerk's System.
3. \_\_\_\_\_ Other County departments should have access to the County Clerk's System from their office workstations when and to the extent allowed by the County Clerk within levels of appropriate access.
4. \_\_\_\_\_ The vendor's system should be able to fully integrate with the County Clerk's Office online web application within the County System.

## BID CALCULATIONS AND PRICING

There will be no additional charges to the Essex County Clerk and the County other than the Basic System quotation and quotations for optional services provided herein. All costs, including storage, as specified in the bid document must be factored into the following price quotations.

### System Components

The Basic System includes the following components as outlined in the detailed specifications listed herein unless set forth below as Optional System Modules or Services.

General Contract Requirements  
Material and Supplies  
Equipment/Software to be furnished by Vendor  
Maintenance and Support Services  
Microfilm Processing and Storage Services  
Data Archiving and Disaster Preparedness Services  
General System/Software Requirements  
Cashiering, Receiving and Fee System  
Reports and Reporting for Cashiering System  
Land Document Indexing and System Functions  
Lien System Functions  
Judgment System Functions  
Pistol Permit System Functions  
Upgrades and Maintenance

Veterans' Cards Systems Functions  
Court Fines and Surcharges System Functions  
Court Indexing and Docketing System  
Document Scanning and Imaging  
Document Retrieval and Public Access  
Customer Payment Account System  
Printing Requirements and Services  
Database Management  
Network Requirements  
Desktop Capability  
Back-up and Recovery  
System Administration and Security  
Project Management Requirements

Cost Per Month

---

Cost per Month including Data Center/Hosting Facilities  
(if applicable)

---

### Optional Services

As outlined in Additional Services and detailed specifications herein. Prices quoted should specify how charged: by system, per unit, per page, etc. [This can be by entry below the item in bold print.]

Online Access to Records

---

Online Revenue Distribution

Vendor %

---

County Clerk %

---

Electronic Filing of Court Records

---

Electronic Recording of Land Records

---

Image to microfilm conversion

---

Microfilm to digital image conversion \_\_\_\_\_

Original document to digital image conversion:  
via Automatic Document Feeder (ADF) \_\_\_\_\_

via flatbed scanner \_\_\_\_\_

Photostats \_\_\_\_\_

Bound books \_\_\_\_\_

Computerization of historical indices into searchable  
database \_\_\_\_\_

Full data entry services \_\_\_\_\_

Remote verification (indicate turnaround time) \_\_\_\_\_

Redaction capability \_\_\_\_\_

Book re-creation services \_\_\_\_\_

Enduro products (with onsite measuring and installation by vendor):  
Canvas covers \_\_\_\_\_

Indestructo binders \_\_\_\_\_

Microfilm, data and image storage \_\_\_\_\_

Outline availability of supplies for system hardware if not included in the base price and vendor is willing to serve as the supplier and how County will be charged.

Printer Cartridges \_\_\_\_\_

Toner for Printers \_\_\_\_\_

Scanner Cleaning/Repair Kits \_\_\_\_\_

Training and Implementation (if applicable) Hourly Rate \_\_\_\_\_

Estimated Hours \_\_\_\_\_

**Substitute "Or Equivalent" Items:**

A Contract, if awarded, will be on the basis of systems and equipment as described in the Specifications, and "or equivalent" items submitted by the proposer and accepted by Essex County.

The proposer may offer "or equivalent" items that meet the same performance and reliability standard as specified herein. If the proposer offers an "or equivalent" system, the proposer must include with the proposal package, documentation establishing equivalent operation and utility. Said "or equivalent" systems shall be accepted or rejected based upon the Awards Committee evaluation of the submitted documentation. All costs, if any, associated with the review of any "or equivalent" items prior to recommendation of award, shall be at the proposer's expense.

If a submitted "or equivalent" item is rejected, the proposer shall be afforded an opportunity to meet with the County representative(s) to offer additional qualifying opinions and information prior to the County rejecting the proposal. The proposer shall not have the opportunity to submit any alternative information after the proposals are opened.

The decision to accept or reject an "or equal" item(s) rests solely with Essex County. If a substitute "or equal" item(s) is not accepted by the County, the proposal will be deemed non-responsive and the County shall reject this proposal. The next highest rated proposal shall then be reviewed for recommendation of award.

**Brand Names and/or Catalog Numbers:**

Brand name(s) and/or catalog number(s) if given are for the purpose of identification and to denote the standard of quality designated, and do not, in any way, restrict bidders to a specific make and manufacturer. Alternatives to the manufacturers brand specified may be acceptable, however, it will be the sole decision of Essex County to determine if the alternates can be considered equivalent.

**Warranty**

1. Contractor warrants that it is a validly organized business entity with authority to enter into this Agreement. Contractor warrants that it has a right to perform all its obligations and grant all the rights contained in this Agreement
2. Contractor warrants that it is the proprietor of the software provided pursuant to this Agreement, and that it has the clear title and the absolute right to license the software's use. Contractor warrants that the services and products delivered hereunder do not violate any rights of any non-contracting party, including any patent, copyright, trade secret, trademark, or other proprietary rights. Contractor further warrants that the software and equipment delivered will be in good working order and will perform per Contractor's response to the RFP and to the Contractor's documentation and published product specifications, during the Warranty Period.
3. Contractor warrants that services and products delivered hereunder are of the kind and quality designated by the contractor and are performed by qualified personnel in a professional, good and workmanlike manner consistent with the highest industry standards.

4. Contractor warrants that the software and any approved changes, additions, modifications or enhancements thereto shall be reasonably free from program coding errors as delivered. In the event coding errors are discovered subsequent to delivery, Contractor will supply corrections at no further cost and in a time frame that complies with federal and state regulatory requirements.

5. This warranty is void if any changes, modifications, additions or enhancements are made to the software by the County.

### **Termination**

Either party, upon giving written notice, may terminate this Agreement.

1. If the other party or its employees, contractors or other agents violate any provision of this Agreement and it is not remedied within thirty (30) days of the party's written receipt of the notice of violation; or
2. If, at any time after the commencement of the services, the County in its reasonable judgment determines that such services are inadequate, unsatisfactory, or substantially nonconforming to the specifications, descriptions, warranties, or representations contained herein, and the problem is not remedied within thirty (30) days of the party's written receipt of the notice describing the problem; or
3. At any time, in the event the other party terminates or suspends its business, becomes subject to any bankruptcy or insolvency proceeding under federal or state statute, or ceases to do business in New York State, or becomes subject to direct control by a trustee or other authority.
4. In the event that any of the above events occurs to a party, that party shall immediately notify the other party of its occurrence.

Upon expiration or termination of this Agreement, Contractor shall promptly return to the County all computer programs, files, documentation, media, related material and any other material that is owned by the County. Expiration or termination shall not relieve either party of its obligations regarding Confidential Information.

## **SECTION IV - PROPOSAL FORMAT**

The following is what is expected in each of the major sections of your proposal:

### **Section A – Introduction:**

This section should contain an Executive Summary which demonstrates your understanding of the County's goals and objectives for an Integrated County Clerk's Records Management System.

### **Section B – Company Profile and History:**

1. Name, phone number and e-mail address of person the Awards Committee should contact with any questions on the proposal.
2. Name and title of person submitting the proposal.
3. Documentation of vendor history, including capabilities in the areas of services to be provided, number of years in business, number of years doing business in New York State, size and scope of operation.
4. Type of organization (corporation, partnership or sole proprietorship).
5. Indicated individual designated as the account manager for the project and submit a resume for this individual identifying past experience on similar projects. The Awards Committee reserves the right to interview the individual.
6. A statement indicating the respondent is in good financial standing, not in any form of bankruptcy, current in taxes.

### **Section C – Vendor Requirements:**

Vendor to include compliance to requirements listed within this Request for Proposals. The vendor shall provide the following information with the proposal:

1. Current client list
2. A work plan summary, time frames and vendor/county responsibilities during implementation. Provide details on expertise and that of personnel and how management procedures will ensure quality work is performed. How vendor's proposed services and proposed work plan will meet the tasks and deliverables as described in this Request for Proposals. Vendor's proposed quality control mechanisms that ensure a high level of quality and commitment to excellence.
3. A financial statement attested to by a certified public accountant and bank references.

### **Section D – Required Forms:**

Required forms listed in the RFP to be returned with Proposal. Specifically include a signed Proposal, Non-Collusion, Vendor Responsibility, Iran Certification Form and all Addenda vendor signature forms. Also include the insurance and workman's comp/disability certification.

### **Section E. – Pricing Section:**

Provide pricing as spelled out in the Request for Proposal.

### **Section F – References:**

This section shall contain names of at least three (3) contracts in connection with the scope of services listed in RFP you presently have (or previously had) with other municipalities or local government agencies within the past five years. Please include company name, address, telephone number and contact person.

### **Section G – Additional Information:**



This section should include additional information the proposer finds would be helpful regarding the proposed service. Identification and explanation of any deviations from the requirements found in the RFP, and any assumptions or conditions relied upon by the vendor in submitting his proposal. (Deviations, conditions or assumptions may be unilaterally rejected by the County, unless in its sole judgment, the vendor has provided reasonably sufficient information to justify such deviations, conditions or assumptions.)

## **SECTION V – GENERAL INFORMATION**

### **Submission Deadline:**

All proposers must submit one (1) original and one (1) electronic copy of the proposal prior to **2:00 pm, Wednesday, October 6, 2021**. Proposals may be mailed or hand delivered to the Essex County Purchasing Department, 7551 Court Street, PO Box 217, Elizabethtown, New York 12932. Late proposal will not be opened and returned to the contractor.

### **Award Decisions:**

The Award Committee will be made up of the County Clerk, Deputy County Clerk, Principal Recording Clerk, and Principal Records Management Clerk in the County Clerk's Office, Director, Information Technology, and the County Purchasing Director. [Input will be sought as necessary from County Clerk staff members according to their principal areas of responsibility, County Manager, County Treasurer and/or Deputy County Treasurer, Real Property Services, and the County Court Judge or his representative.]

Award shall be made to the bidder whose proposal is determined to be in the best interest of Essex County based upon the evaluation of references, the award criteria and interviews, if conducted. Applicants may be called in by the committee for an interview. Essex County reserves the right to conduct or waive interviews. Price will not necessarily be the determining factor in the award of the contract. All proposals will be evaluated to determine if they meet the required format and be in compliance with all requirements of the Request for Proposals.

Incomplete or non-responsive proposals may be rejected at the discretion of Essex County.

The following criteria will be utilized in the evaluation of qualifications for developing the list of candidates to be considered for interviews and/or potential negotiations. The following criteria are NOT listed in order of importance.

### **Principal Award Criteria**

#### **Technical Quality (Maximum Points – 60)**

<b>% Weight</b>	<b>Award +Criteria</b>
10%	Length of time respondent has been providing similar multi-moduled electronic records management systems to land/court recording offices and background/experience in same; length of time in business generally; company financial stability.
10%	Experience and success of the vendor in providing similar services (determined by RFP Proposals and input from references).

10%	Demonstrated ability of the proposed solution (application and services including conversion) to satisfy the functional requirements defined in the RFP, including RFP forms and contract requirement checklist.
5%	Number of vendor installations and length of service in counties of similar size and complexity in New York State.
5%	Availability of personnel, facilities, equipment and other resources. Extent to which vendor relies on in-house vs. contracted resources. Relationship of third party vendors will only be to the bidder.
5%	Initial installation/training and on-going support services to be provided by the vendor, and demonstrable record of same from other site locations. Plan for transition and conversion of data to new system.
5%	Potential of the proposed software and comprehensive proposal to accommodate the present and future needs of the County.
5%	Responsiveness, completeness and thoroughness of vendor's submitted work plan; demonstrated understanding of the County's needs and requirements.
5%	Demonstrated ability to support a large installed base of users.

**Price (Maximum Points – 40)**

40%	Proposed pricing and payment structure.
-----	---

Cost will not be the primary factor in the selection of a firm. The proposed price will be graded based upon the following formula:

Average Bid/Your Bid = X (whereby X cannot exceed 100%)

X \* 40 points = Points awarded based on cost

Total maximum points = 100 points

The bidders must demonstrate and/or plan to meet the following requirements:

1. To convert all the data maintained by the current contractor and merge into the new system at no cost to the County and in a reasonably agreed upon time frame.
2. Make necessary state and county mandated changes, corrections, and updates promptly, at no cost to the County Clerk.
3. Duplicate rolls of microfilm will be stored in an archival storage facility on behalf of the County Clerk.
4. No part of the contract will be performed by sub-contractors not completely accountable to and responsive to the vendor.
5. The inclusion of all microfilm records from the current vendor to the new vendor facilities will be included at no cost to the County Clerk.
6. This RFP does not specifically require that a data center be Tier IV compliant, but that is a factor that will be considered and will be viewed favorably in assessing the proposals.

The Essex County Purchasing Agent may arrange for an interview with proposers submitting proposals, if required, for the purpose of obtaining additional information or clarification. Proposers must be prepared to make one or more interviews. Proposers must comply with this

request or be disqualified. Proposers may be requested to make presentations prior to award of contract. Proposers must comply with this request or be disqualified.

Proposers are advised that, if in the event of receipt of an adequate number of proposals which, in the opinion of the Essex County Purchasing Agent, require no clarifications and/or supplementary information, such proposals may be evaluated without further discussion. Hence, proposals should be submitted initially on the most complete and represent the Vendor's "best offer."

Essex County reserves the right to reject any and all proposals and to waive minor irregularities. Essex County further reserves the right to seek new proposals when such a procedure is reasonably in the best interest of the County to do so.

**Proof**

The Vendor shall bear the burden of proof for compliance with this specification.

**Contract Term:**

This contract will take effect January 1, 2022, with the successful provider being expected to begin service at full levels as of that date. The contract will continue through December 31, 2026, after which there will be the option, upon mutual agreement, to renew the contract annually for up to three additional years.

**Vendor Acknowledgements:**

By submitting a proposal to provide and perform services sought by Essex County, each proposer:

1. Represents and acknowledges the proposer has examined and is familiar with this RFP and all its specifications and requirements.
2. Represents and acknowledges the proposer can furnish the materials, equipment and/or services required satisfactorily and in complete compliance with the specifications.
3. Acknowledges that neither the County nor any agent or representative of the County have made any representation or promise on which the proposer has relied regarding the services covered by this request for proposal, or any matter or thing whatsoever relating thereto or otherwise, except as set forth.

**Inquiries:**

Questions relating to this RFP may be directed to:

Linda Wolf, CPA  
Purchasing Agent  
7551 Court Street  
Elizabethtown, NY 12932  
(P) 518-873-3332 / (F) 518-873-3339  
[linda.wolf@essexcountyny.gov](mailto:linda.wolf@essexcountyny.gov)

**Last Date for Questions:**

Final date for written question is **Noon, September 27, 2021**. All questions about the meaning or intent of the specifications must be submitted in writing (or email/fax). Vendors shall provide their fax number as well as email address for response. Any questions the County feels are pertinent to all proposers will be distributed as an addendum to the RFP to all parties recorded as having received the proposal documents. Only questions answered by formal written Addenda will

be binding. Please place "Integrated County Clerk's Records Management System" in the subject line when sending questions by email.

**Proposal Format:**

- Proposals must be submitted using the Proposal Price Sheet included in these specifications.
- Bids must be accompanied by a signed Proposal Form, completed, signed and notarized: Vendor Responsibility Questionnaire; Certification of Compliance with Iran Divestment Act; and, Non-Collusion Statement.
- These forms can be found at the end of these specifications.
- **One (1) original and one (1) electronic copy** of the proposal package must be provided (no spiral bound copies please).
- Read all documents contained in the proposal package. *Facsimile or emailed copies are NOT acceptable.* Bids/RFP responses must be delivered to Purchasing Office before stated deadline to be considered. Proposers are responsible for reporting, in writing, any errors found in the bid specifications to the Essex County Purchasing Agent, 7551 Court Street, PO Box 217, Elizabethtown, NY 12932. Proposers are responsible for submitting their proposals to the Essex County Purchasing Department, 7551 Court Street, Elizabethtown, NY 12932 at or prior to the time indicated in the bid package. No proposals will be accepted after the designated time indicated in the proposals package. ***Proposals are due prior to 2:00 pm on Wednesday, October 6, 2021.***
- Bidders shall indicate on the outside of their sealed bid the following information:
  - a. Integrated County Clerk's Records Management System
  - b. Date and Time of RFP Opening
  - c. Company Name

*Failure to do so may result in the rejection of the proposal as being unresponsive.*

**Non-Collusion Statement**

A signed Non-Collusion Statement ***shall be*** returned with your proposal.

**Late Proposals:**

Proposals received in the Purchasing Office ***after the date and time*** prescribed shall not be considered for contract award and shall be returned to the Vendor as non-responsive. The Vendor is responsible for the delivery of the proposal. If the proposal is delivered to the wrong county office, by any delivery method, the Vendor bears the responsibility. Delivery of the proposal to the specified location at the prescribed time and date is the sole responsibility of the Vendor.

The County employee(s) whose duty it is to receive proposal documents will decide when the specified time has arrived and no proposal received thereafter will be accepted.

**NOTE: Any delay due to traffic, weather, construction, mail or express delivery, mechanical failure or failure to locate the Purchasing Office, is not an exception to the deadline for receipt of proposals. Please plan accordingly.**

**Invoicing/Payment:**

Payment will be made forty five (45) days or less after receipt of invoice.

**Completeness and Accuracy of Bid Documents:**

The County of Essex shall not be held responsible for the completeness or accuracy of any bid documents received by a vendor that were not directly issued to that vendor by the Essex County Purchasing Department.

Any vendor submitting a proposal based on incomplete or inaccurate information resulting from documentation received from any third party, shall not have cause for relief from award or completion of a contract in accordance with the official documents on file with the Essex County Purchasing Department.

It is HIGHLY suggested that all vendors interested in participating in this solicitation, contact the Essex County Purchasing Department directly at the above address or telephone number to assure they have received the most accurate and up to date material concerning this contract.

**Release of Information:**

The County does not offer or supply anyone the list of people that have obtained a copy of the RFP scope of services or cost estimates for the project prior to the opening of the RFP.

NO EXCEPTIONS ARE MADE TO THIS POLICY.

**Pricing:**

Each price listed in the proposal will include any and all expenses involved in the furnishing and installation of goods and services covered under these specifications. Each proposal price will exclude any and all taxes. Governmental entities are tax-exempt under State law.

Price adjustments, if necessary, will be acceptable upon proper documentation, at the time of contract renewal only.

**References:**

Provide a minimum of three (3) references that relate to the services we require. Please include as many of the following as you can, including name, contact person and telephone numbers for all references:

- (a) Any current customer – Individual or organization;
- (b) Any former customer;
- (c) A customer with 3–5 years' experience with your organization;
- (d) Any customers representing similar services as requested.

**Clarification of Proposal Information:**

Essex County reserves the right to request verification, validation or clarification of any information contained in any of the proposals. This clarification may include checking of references and securing other data from outside sources, as well as from the Vendor.

**Reference to Other Materials:**

The Proposer cannot compel Essex County to consider any information except that which is contained in its proposal, or which is offered in response to a request from the County. The Proposer should rely solely on its proposal. The County, however, reserves the right, in its sole discretion, to take into consideration its prior experience with proposers and information gained from other sources.

**Altering Proposal:**

Proposals cannot be altered or amended after submission deadline. Any interlineations, alteration or erasure made before opening time and date shall be initialed by the signer of the proposal, guaranteeing authenticity. Proposals must be submitted in ink or typewritten. Penciling will not be accepted.

**Amendment of Proposal:**

A Proposal may not be amended. However, a Proposal may be withdrawn and resubmitted pursuant to (Withdrawal of Proposal) section above.

**Withdrawal of Proposal:**

A proposal may be withdrawn at any time prior to the submittal deadline. A Proposal may be withdrawn and resubmitted at any time prior to the submittal deadline. No proposal may be withdrawn after the submittal deadline without the consent of Purchasing which may be withheld by Purchasing in its absolute discretion.

**Proposal Subject to Disclosure:**

During the evaluation process, the content of each proposal will be held in confidence and details of any proposal will not be revealed (except as may be required under the Freedom of Information Law or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which could cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process.

Should you feel your firm's proposal contains any such trade secrets or other confidential or proprietary information, you must submit a request to except such information from disclosure. Such request shall be in writing, shall state the reasons why the information should be excepted from disclosure, shall be provided at the time of submission of the subject information and in the same envelop as the proposal. The proprietary or confidential data must be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.

Requests for exemption of the entire contents of a proposal from disclosure have generally not been found to be meritorious and are discouraged. Kindly limit any requests for exemption of information from disclosure to bona fide trade secrets or specific information, the disclosure of which would cause a substantial injury to the competitive position of your firm.

Essex County cannot guarantee the confidentiality of any information submitted.

**Opening of Proposals:**

Under the Request for Proposals process, sealed offers will be received and opened in the Office of the Purchasing Director. Each proposal will be checked to determine if it is complete and meets the requirements of this Request for Proposals. At and after opening, proposals will NOT be part of the public record and subject to disclosure, but will be kept confidential until after award. When such award is completed, proposals will be available for public inspection.

**Cost for Proposal Preparation:**

Any and all costs incurred by a firm in preparing or submitting proposals are the proposer's sole responsibility. Essex County will not reimburse any proposers for the costs incurred preparing proposal, preparing or submitting additional information requested by the County, or for the participation in a selection interview.

**Elaborate Proposals:**

Elaborate proposals in the form of brochures or other presentations beyond that necessary to present a complete and effective proposal are neither required nor desired.

**Right to Submitted Materials:**

All responses, inquiries, or correspondence relating to or in reference to this RFP, and all other reports, charts, display, schedules, exhibits and other documentation submitted by the proposers, will become the property of the County when received.

**Minimum Conditions for Consideration:**

To be considered, the proposer must, at a minimum, respond to the full scope of services specified in this RFP. The vendor may provide suggested additions, enhancements or improvements to the scope of services, which, at the discretion of the County, may or may not be considered.

**Essex County reserves the right to:**

1. Reject any and all proposals received in response to this RFP;
2. Reject the proposal of a vendor who has previously failed to perform properly;
3. Select proposals for contract award or for negotiations, other than those with the lowest price;
4. Negotiate as to any aspect of the proposal with any vendor.
5. Waive any technical or formal defect in the proposal that is considered by Essex County to be merely irregular, immaterial, or unsubstantial.

**Award of Contract:**

Award of contract will be made following review of responses by the Award Committee; approval by designated committee followed by the Legislature approval, with contract awarded by Essex County Resolution.

**Contract Development:**

If the County accepts a proposal, the County of Essex intends to enter into a contractual agreement with the vendor providing the proposal which best meets the needs and requirements of the County. The content of the Request for Proposals and the successful proposal submitted will become an integral part of the contract, but may be modified by provisions of the contract upon mutual agreement.

**Exception:**

Any exception taken by the Vendor to the requirements and conditions of the specifications must be stated and described in detail as a part of the proposal. If no exceptions or deviations are identified in this manner, the item must be furnished exactly as described herein.

**Advertising:**

In submitting its proposal, the Proposer agrees not to use the results there from as a part of any news release or commercial advertising without written approval of the County.

**Addenda:**

Essex County may, at any time, change any portion of the Proposal described and detailed herein. These changes will be communicated to the vendors in the form of Addenda. Copies of addenda will be posted on Essex County's MUNIS VSS, BidNetDirect and the County's web page at <https://www.co.essex.ny.us/wp/bid>. No Addenda will be issued later than forty-eight hours prior to the date and time for the receipt of offers, except an addenda withdrawing the Proposal or addenda for postponement of the Proposal due date/time.

Vendors shall ascertain prior to submitting their bid they have received all Addenda's issued and the acknowledge receipt of Addenda by the return of the signed Addenda form(s) with the Proposal response. It is the responsibility of the Vendor to check the Empire State Purchasing Group web page for Addenda which may be issued on this Proposal.

Reminder: It is the vendor's sole responsibility to verify the Proposal submittal includes any or all addenda.

**Registration, Downloading, Addenda From Purchasing Web Site:**

You must register as a subscriber on Essex County's MUNIS VSS, BidNetDirect or the Essex County Website: <https://www.co.essex.ny.us/wp/bid> before you download either a RFP or Addendum. Vendors are exclusively responsible for the downloading Addendums from the web site. It is imperative to check [Essex County Bids/RFPs](#) web page frequently right up to the RFP closing date. By submitting a Proposal a vendor waives any claims related to the failure to keep so apprised.

**Alternate Proposals:**

An alternate proposal is viewed by Essex County as a proposal describing an approach to accomplishing the requirements of the RFP which differs from the approach set forth in the solicitation.

An Alternate proposal may also be a second proposal submitted by the same proposer which differs in some degree from its basic or prime approach.

Alternate proposals may address the technical approach or other provision or requirements set forth in the solicitation.

Essex County will, during the initial evaluation process, consider all alternate proposals submitted. Essex County reserves the right to reject any and all alternate proposals should it be in the best interest of the County.



**Certifications of Insurance/Workers' Compensation/Disability:**

The vendor shall provide current Certificates of Insurance, Workman's Compensation/Disability with the proposal as described in the attached Insurance Certification Form.

Proof of Worker' Compensation coverage is NOT acceptable when listed on the Insurance Acord. Please see further instructions on Workers' Compensation included with this bid.

**The Acord Certificate, Workers' Compensation and Disability forms must all be on file with the County before contract can be awarded.**

**Governing Law:**

All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of New York.

**Extension of Contract to Other Municipalities:**

Essex County reserves the right to allow all municipal and not for profit organizations authorized under the General Municipal Laws of the State of New York, to purchase any goods and/or services awarded as a result of this bid in accordance with the latest amendments to NYS GML 100 through 104. However, it is understood that the extension of such contracts are at the discretion of the vendor and the vendor is only bound to any contract between the County of Essex and the vendor. It is also understood that the extension of such contracts are not applicable to those contracts covered under Article 8 or 9 of the Prevailing Wage Rates.

**Independent Contractor**

It is understood the contractor is an independent contractor and shall not be considered an agent of the County, nor shall any of the contractor's agents or employees be considered sub-agents for the County.

**Disqualifications:**

Essex County reserves the right to disqualify any company upon convincing evidence of collusion with intent to defraud and to commit any other illegal practices on the part of the firm. Failure to comply with requests for insurance or bonding may also be grounds for disqualification. Essex County reserves the right to reject any and all proposals, to waive all technicalities and irregularities, and to make the award considered to be in the best interest of the County.

**County Web Page:**

Bids, RFP's, Quotes and Addenda will be posted on Essex County web page:  
<https://www.co.essex.ny.us/wp/bid> and are available at no charge after registering.

**Iranian Energy Sector Divestment:**

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State finance law.

**Fuel Surcharges:**

Essex County will not pay any type of fuel surcharge on any item or contract unless specifically indicated as such by the County in the solicitation or contract. Any fuel charges added and not authorized by the County will be deleted from any payments made to the vendor.

## PROPOSAL

### Integrated County Clerk's Records Management System

**THE UNDERSIGNED PROPOSES TO PROVIDE THE GOODS AND SERVICES** required as set forth in the referenced Request for Proposal. The successful bidder hereby agrees to furnish the goods and services in accordance with all terms, conditions and specifications contained within referenced Request for Proposal, at prices submitted in referenced specifications. I certify that I am authorized to sign this proposal, myself or the company or firm I represent, to a contract with Essex County. This signed proposal will become part of a binding contract after award by the Essex County Board of Supervisors to the successful bidder.

**NOTE: By signing and submitting the proposal form for consideration by Essex County Board of Supervisors the Contractor acknowledges they have read, understood, and agree to all aspects of the specifications as presented without reservation or alteration.**

Bidder: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Dated: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Social Security/Federal ID No: \_\_\_\_\_

Email: \_\_\_\_\_

DO NOT WRITE BELOW THIS LINE (FOR COUNTY USE ONLY)

---

\_\_\_\_\_  
CHAIRPERSON, ESSEX COUNTY BOARD OF SUPERVISORS

\_\_\_\_\_  
RESOLUTION NO.

\_\_\_\_\_  
DATE

**APPENDIX C**  
**INSURANCE REQUIREMENTS - PROFESSIONAL SERVICE PROVIDERS**

I. The Contractor shall procure and maintain during the entire term of the contract the following required insurance:

→ **Workers' Compensation**

Statutory Workers' Compensation and Employers' Liability Insurance for all employees, *except that in the event the Contractor has no employees and is exempt by law from having such insurance coverage the Contractor may provide an exemption statement.*

→ **Professional Liability Insurance**

\$1,000,000 per occurrence / \$2,000,000 aggregate for the negligent or wrongful professional acts of the Contractor.

→ **Commercial General Liability Insurance**

\$1,000,000 per occurrence/ \$2,000,000 aggregate.

II. Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the Contractor hereby agrees (except as to workers' compensation insurance coverage) to either effectuate

- (a) the naming of the County as an "additional insured as funding source for contract services" on the contractor's insurance policies, or
- (b) the inclusion of a contractual liability endorsement covering the Contractor's contract with the County.

III. The policy/policies of insurance furnished by the Contractor shall:

- be from an A.M. Best rated "A" New York State licensed insurer;
- contain a 30-day notice of cancellation;

IV. In the event that the Contractor is unable to furnish professional liability insurance other than on a "claims made" basis, the Contractor shall procure and maintain a separate "tail" policy of such insurance providing the required coverage, or furnish proof of continuous coverage under the existing policy, for a period of one year and ninety days following the termination date of this contract.

V. The contractor agrees to indemnify the County for any applicable deductibles.

VI. Contractor acknowledges that failure to obtain such insurance on behalf of the County constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the County. Prior to the commencement of work or use of facilities the Contractor shall provide to the County proof that such requirements have been met by furnishing certificate(s) of such insurance and the declarations pages from the policies of such insurance. The failure of the County to object to the contents of the certificate(s) and/or declarations pages, or the absence of same, shall not be deemed a waiver of any and all rights held by the County.

VII. All certificates of insurance will provide 30 days notice to the county of cancellation or non-renewal.

VIII. Contractor and subcontractor waives all rights of subrogation against the owner and will have the General Liability, Umbrella Liability Workers' Compensation policies endorsed setting forth this Waiver of Subrogation.

IX. All policies will also contain no exclusion with respect to Section 240 and 241 of the NYS Labor Law.

X. The County shall be listed as an additional insured on a primary and non-contributory basis.

XI. All Contractors Subcontractors shall comply with these provisions and shall list the County as additional insured on a primary and non-contributory basis.

## **APPENDIX D - STANDARD CLAUSES FOR ESSEX COUNTY CONTRACTS**

### **1. Independent Contractor Status**

The parties each acknowledge, covenant and agree that the relationship of the Contractor to the County shall be that of an independent contractor. The Contractor, in accordance with its status as an independent contractor, further covenants and agrees that it:

- (a) will conduct itself in accordance with its status as an independent contractor;
- (b) will neither hold itself out as nor claim to be an officer or employee of the County; and
- (c) will not make any claim, demand or application for any right or privilege applicable to an officer or employee of the County, including but not limited to workers' compensation benefits, unemployment insurance benefits, social security coverage or retirement membership or credits.

### **2. Contractor To Comply With Laws/Regulations**

The Contractor shall at all times comply with all applicable state and federal laws, rules and regulations governing the performance and rendition of the services to be furnished under this agreement.

### **3. Licenses, Permits, Etc.**

The Contractor shall, during the term of this agreement, obtain and keep in full force and effect any and all licenses, permits and certificates required by any governmental authority having jurisdiction over the rendition and performance of the services to be furnished by the Contractor under this agreement.

### **4. Termination**

This agreement may be terminated without cause by either party upon 30 days prior written notice, and upon such termination neither party shall have any claim or cause of action against the other except for services actually performed and mileage expenses actually incurred prior to such termination. Notwithstanding the foregoing, this agreement may be immediately terminated by the County:

- (a) for the Contractor's breach of this agreement, by serving written notice of such termination stating the nature of the breach upon the Contractor by personal delivery or by certified mail, return receipt requested, and upon such termination either party shall have such rights and remedies against the other as provided by law; or
- (b) upon the reduction or discontinuance of funding by the State or Federal governments to be used in furnishing some or all of the work, labor and/or services provided for under this agreement, and upon such termination neither party shall have any claim or cause of action against the other except for services actually performed and expenses (if the same are to be paid under this agreement) actually incurred prior to such termination.

### **5. Defense & Indemnification**

The Contractor shall defend, indemnify and hold harmless the County to the fullest extent allowed by law, and notwithstanding any insurance requirements, from and against any and all liability, losses, claims, actions, demands, damages, expenses, suits, judgments, orders, causes of action and claims, including but not limited to attorney's fees, legal costs, and all other costs of defense, by reason of any liability whatsoever imposed by law or otherwise upon the County for

damages to person, property or of any other kind in nature, including but not limited to those for bodily injury, property damage, death arising out of or in connection with its officers, employees, agents, contractors, sub-contractors, guests or invitees negligence or its/their performance or failure to perform this agreement. This language shall be inserted by Contractor in all agreements between Contractor and its subcontractors and subcontractors will indemnify and hold harmless the County pursuant to its terms.

6. **Discrimination Prohibited**

The services to be furnished and rendered under this agreement by the Contractor shall be available to any and all residents of Essex County without regard to race, color, creed, sex, religion, national or ethnic origin, handicap, or source of payment; and under no circumstances shall a resident's financial ability to pay for the services provided be considered unless such consideration is allowed by State and/or Federal law, rule or regulation.

7. **Non-Discrimination In Employment**

The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status. In the event that this is a contract to be performed in whole or in part within the State of New York for (a) the construction, alteration or repair of any public building or public work, (b) for the manufacture, sale or distribution of materials, equipment or supplies, (c) for building service, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin:

- (1) discriminate in hiring against any citizen who is qualified and available to perform the work;  
or
- (2) discriminate against or intimidate any employee hired for the performance of work under this contract.

The Contractor agrees to be subject to fines of \$50.00 per person per day for any violation of this paragraph, as well as to possible termination of this contract or forfeiture of all moneys due hereunder for a second or subsequent violation.

8. **Damage/Injury To Persons & Property**

The Contractor shall promptly advise the County of all damages to property of the County or of others, or of injuries incurred by persons other than employees of the Contractor, in any manner relating, either directly or indirectly, to the performance of this agreement.

9. **Records**

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter collectively "the Records") in accordance with the following requirements:

- (a) the Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter;
- (b) the County Auditor, State Comptroller, the Attorney General or any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York, or, if no such office is available, at a mutually

agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

The County shall take reasonable steps to protect from public disclosure any of the records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified and designation of said records as exempt under the statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation.

10. **Claims For Payment**

All invoices or claims for which payment is sought from the County must be submitted in accordance with the following:

- (a) each claim for payment must include
  - (1) an invoice detailing the claim,
  - (2) copies of all documentation supporting the claim,
  - (3) a properly completed County standard voucher, which includes
    - (i) the County contract number under which payment is being claimed, **AND**
    - (ii) the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. *[Failure to include this number or numbers will prevent and preclude payment by the County; except that where the payee does not have such number or numbers, the payee, on the invoice or County voucher, must give the reason or reasons why the payee does not have such number or numbers and such reasons constitute a valid excuse under law.]*
- (b) Unless otherwise provided in this agreement, each claim for payment must be submitted to the County no later than 30 days after the work, labor, materials, and/or services for which payment is claimed were rendered or furnished.
- (c) Notwithstanding any other provision of this agreement, no claim for payment shall be valid, and the County shall not be liable for payment thereof, unless it is submitted to the County within 30 days of the close of the calendar year in which the work, labor, materials, and/or services for which payment is claimed were rendered or furnished.
- (d) Unless otherwise provided in this agreement, the requirements of this paragraph 10, and/or of any other provisions of this agreement which supersede the same, shall constitute conditions precedent to the County's payment obligation, and failure to comply with any or all of said requirements shall entitle the County to deny payment.
- (e) As a further condition of payment, each claim of payment shall be accompanied by a Contractor and Sub-Contractor Progress Payment Waiver, Release and Discharge, and each Final Payment shall be accompanied by a Contractor and Sub-Contractor Final Payment, Waiver and Release form. As well as a Contractor Affidavit relative to Final Payment. Copies of these forms are attached and made a part hereof. (Please disregard if these forms do not pertain).

11. **Consent**

In the event that State or Federal law requires the recipient of services to be furnished and

rendered under this agreement to give his/her prior consent thereto, the contractor shall obtain such person's consent and furnish proof thereof to the County.

12. **Executory Clause**

The County shall have no liability under this contract to the Contractor or to anyone else beyond the funds appropriated and available for this contract.

13. **Public Work & Building Service Contract Requirements**

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof:

- (a) neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department; and
- (b) the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

14. **Public Work Contracts – Hazardous Substances**

If this is a contract for public work, the Contractor agrees as follows:

- (a) the Contractor acknowledges that the County uses and/or produces various substances which may be classified as hazardous under OSHA's Hazard Communication Standard;
- (b) the Contractor recognizes the use of said substances by the County and acknowledges that the County has provided, or upon request will provide, the Contractor with a description of such substances which may be present in the area of the County's facility/facilities to which the Contractor may have accessed during the performance of this contract;
- (c) the Contractor acknowledges that the County has provided, or upon request will provide, suggestions for appropriate protective measures which should be observed when the Contractor is in the area of any such hazardous substances;
- (d) the Contractor agrees to be solely responsible for providing training and information to its employees regarding any such hazardous substances, as well as of any protective measures suggested by the County;
- (e) the Contractor agrees to be solely responsible to ensure that the Contractor's employees observe protective measures during the performance of their duties in the performance of the contract, and that all such protective measures will be at least as stringent as those suggested or which would have been suggested by the County;
- (f) in the event that the Contractor's performance of the work under this contract requires the use of any hazardous substances, the Contractor shall notify the County in advance of bringing in and/or using such substances in or upon County property and suggest to the County appropriate measures to be observed by the County, its officers and employees, and/or the public; and
- (g) in the event the Contractor fails in whole or in part to comply with the terms of this paragraph, the County shall have the right to interrupt the Contractor's work and/or terminate this contract, and the Contractor shall be prohibited from renewing such work until all applicable safety and health procedures and practices are implemented by the Contractor.



15. **Disputes**

Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be heard in the Essex County Supreme Court or any other court of competent jurisdiction within Essex County, New York.

16. **Non-Assignment**

This agreement may not be assigned, subcontracted, transferred, conveyed, sublet or otherwise disposed of in whole or in part, by the Contractor, without the prior written consent of the County, and any attempts to assign the contract without the County's written consent are null and void.

17. **No Collusion**

If this contract was awarded based upon the submission of bids, the Contractor warrants, under penalty of perjury, that:

- (a) its bid was arrived at independently and without collusion aimed at restricting competition; and
- (b) at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on Contractor's behalf.

18. **International Boycott**

In accordance with Section 220-f of the Labor Law, if this contract exceeds \$5,000.00, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation, has participated, is participating, or shall participate in an International boycott in violation of the federal Export Administration Act of 1979, or regulations thereunder. If such contractor, or any of the aforesaid affiliates of Contractor, is convicted, or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the County Manager within five (5) business days of such conviction, determination or disposition of appeal.

19. **County's Rights of Set-Off**

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

20. **Contractor Defined**

Whenever the term "Contractor" is used in this agreement, such term shall include and

apply to all employees, all officers, directors and agents, if any, of the Contractor.

21. **Amendment**

This agreement may not be amended, modified or renewed except by written agreement signed by the Contractor and the County.

22. **Ownership Of Work Products**

All final and written or tangible work products completed by the Contractor shall belong to the County. In the event of premature discontinuance of performance, the Contractor agrees to deliver all existing products and data files to the County.

23. **Executive Order Debarment/Suspension**

In the event that this contract involves the Contractor furnishing goods and services in excess of \$100,000.00, or constitutes a subaward to subrecipients, under any Federal program, grant or other funding source, then by executing this agreement the Contractor certifies that neither it nor any of its principals are suspended or debarred within the scope or meaning of Executive Orders 12549 and 12689, any Federal or State regulation implementing or codifying the same, or any other Federal or State law, rule or regulation.

24. **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

In the event that this contract involves the use or disclosure of protected health information within the meaning or application of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the regulations thereunder, the following provisions of this paragraph shall apply.

- (a) **Definitions.** The terms used, but not otherwise defined, in this Agreement shall have the same meaning as given such terms in 45 CFR §160.103 and §164.501, as the same may be amended from time to time, including but not limited to the following.
- (1) "Business Associate" shall mean the Contractor, its officers, employees, agents and subcontractors.
  - (2) "Covered Entity" shall mean Essex County (the "County"), its departments, agencies, officers and employees.
  - (3) "Individual" shall have the same meaning as given such term in 45 CFR §164.501 and shall also include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
  - (4) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subparts A and E.
  - (5) "Protected Health Information" shall have the same meaning as given such term in 45 CFR §164.501, limited to the information created or received by Contractor from or on behalf of the County.
  - (6) "Required by law" shall have the same meaning as given such term in 45 CFR §164.501.
  - (7) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- (b) **Obligations and Activities of Contractor.**  
Contractor agrees to:

- (1) not use or disclose Protected Health Information other than as permitted or required by this Agreement or as required by law;
- (2) use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement;
- (3) mitigate, to the extent practicable, any harmful effect that is known, should have been known, and/or discovered to/by Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this Agreement;
- (4) report to the County any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware;
- (5) ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Contractor on behalf of the County agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information;
- (6) provide access, at the request of the County, and in the time and manner designated by the County or the Secretary, to Protected Health Information in a Designated Record Set, to the County or, as directed by the County, to an Individual in order to meet the requirements under 45 CFR §164.524;
- (7) make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs or agrees to pursuant to 45 CFR §164.526 at the request of the County or an Individual, and in the time and manner designated by the County or the Secretary;
- (8) make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, the County available to the County, and/or to the Secretary, in a time and manner designated by the County or by the Secretary, for purposes of the Secretary determining the County's compliance with the Privacy Rule;
- (9) document such disclosures of Protected Health Information and information related to such disclosures as would be required for the County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528;
- (10) provide to the County or an Individual, in time and manner designated by the County or the Secretary, information collected in accordance with the above subparagraph (b)(9) of this Agreement, to permit the County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.

(c) Permitted Uses and Disclosures by Contractor.

Except as otherwise limited in this Agreement, Contractor may use or disclose Protected Health Information on behalf of, or to provide services to, the persons entitled to services under this Agreement:

- (1) solely for the purposes of performing Contractor's obligations under this Agreement, if such use or disclosure of Protected Health Information would not violate the Privacy Rule if done by the County or the minimum necessary policies and procedures of the County; or
- (2) provided that such use or disclosures are required by law; or
- (3) Contractor

(A) obtains written authorization(s) from the individual to which the information pertains permitting the specific uses or disclosures of such information to third persons,

(B) represents and agrees in writing with such individual that the information to be used and/or disclosed will remain confidential and used or further disclosed only as required by law or for the purposes specified in the written authorization(s), and

(C) such third persons agree in writing to notify the County as soon as practicable and in writing of any instances of which such third person(s) is/are aware in which the confidentiality of the information has been breached; or

(4) provide Data Aggregation services to the County as permitted by 42 CFR §164.504(e)(2)(i)(B); or

(5) report violations of law to appropriate Federal and State authorities, consistent with §164.502(j)(1).

(d) County To Inform Contractor of Privacy Practices and Restrictions.

The County agrees to notify the Contractor of any

(1) limitation(s) in its notice of privacy practices of the County in accordance with 45 CFR §164.520, to the extent that such limitation may affect the Contractor's use or disclosure of Protected Health Information;

(2) changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Contractor's use or disclosure of Protected Health Information; and/or

(3) restriction to the use or disclosure of Protected Health Information that the County has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Contractor's use or disclosure of Protected Health Information.

(e) Permissible Requests by County.

The County shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the County; except that in the event that the services to be furnished by the Contractor under this Agreement requires data aggregation by the Contractor, the Contractor may use or disclose protected health information for such data aggregation or management and administrative activities of Contractor.

(f) Survival of Provisions.

The obligations of the Contractor under this paragraph 24 shall survive the expiration of the term of this Agreement and/or the termination of this Agreement, and said obligations shall remain effective and shall not terminate until all of the Protected Health Information provided by the County to Contractor, or created or received by Contractor on behalf of the County, is destroyed or returned to the County, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in subparagraph (g) below.

(g) Return or Destruction of Protected Health Information.

Except as otherwise provided below, upon termination of this Agreement for any reason, Contractor shall return or destroy all Protected Health Information received from the County, or

created or received by Contractor on behalf of the County. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information.

In the event that Contractor determines that returning or destroying the Protected Health Information is infeasible, Contractor shall provide to the County notification of the conditions that make return or destruction infeasible. Upon determination by the County that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protected Health Information.

(h) Termination for Cause.

Upon the County's knowledge of a material breach of this paragraph by Contractor, the County shall:

- (1) either:
  - (A) provide an opportunity for Contractor to cure the breach or end the violation and terminate this Agreement within the time specified by the County, or
  - (B) immediately terminate this Agreement if cure is not possible; and
- (2) report the violation to the Secretary.

(i) Miscellaneous.

- (1) Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (3) Survival. The respective rights and obligations of Contractor under this paragraph 24 of this Agreement shall survive the termination of this Agreement.
- (4) Interpretation. Any ambiguity in this Agreement shall be resolved to permit the County to comply with the Privacy Rule.

25. Severability

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

26. Entire Agreement

This agreement is the entire agreement between the parties, and the same shall be construed in accordance with the laws of the State of New York.

27. For Medicaid/Federal Health Care Related Work

**Excluded/Debarred Party Clause**

The Vendor/Contractor represents and warrants that it, nor its employees or contractors, are not excluded from participation, and is not otherwise ineligible to participate, in a "federal health care program" as defined in 42 U.S.C. § 1320a-7b(f) or in any other government payment program. In the event Vendor/Contractor, or one of its employees or contractors, is excluded from participation, or becomes otherwise ineligible to participate in any such program during the Term, Vendor/Contractor will notify Essex County in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to the Vendor/Contractor, Essex County reserves the right to immediately cease contracting with the Vendor/Contractor. If Vendor/Contractor is an Employment Agency, the Vendor/Contractor represents and warrants that its employees and contractors are not excluded from participation in a "federal health care program" as defined in 42 U.S.C. § 1320a-7b(f) or debarred from participation in any federal or other program. The Vendor/Contractor further represents and warrants it will, at a minimum, check monthly all of its employees and subcontractors against:

- The General Services Administration's Federal Excluded Party List System (or any successor system),
- The United States Department of Health and Human Services' Office of the Inspector General's Lists of Excluded Individuals and Entities or any successor list,
- The New York State Department of Health's Office of the Medicaid Inspector General's list of Restricted, Terminated or Excluded Individuals or Entities.

In the event an excluded party is discovered the Vendor/Contractor will notify Essex County in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to the Vendor/Contractor, Essex County reserves the right to immediately cease contracting with the Vendor/Contractor.

## 28. **Cooperative Purchasing (Piggybacking)**

Pursuant to General Municipal Law §103 and County Law §408-a, any political sub-division or fire company (as both are defined in Section 100 of the GML) or district authorized to make purchases of apparatus, materials, equipment or supplies, or to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment and supplies may make said purchases under this existing contract (Piggyback) provided, and on condition that this present contract was **LET TO THE LOWEST RESPONSIBLE BIDDER**. Therefore all terms and conditions under this contract are extended to other political sub-divisions and governmental entities.

Purchases under this contract by any other political sub-division other than Essex County shall be pursuant to the terms and conditions of Resolution No. 207 of 2013 dated July 1, 2013.

## 29. **New York State Sexual Harassment Laws**

Contractor certifies as to its self or its own organization, under penalty of perjury, that Contractor has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-g of the New York State Labor Law. A model policy and training has been created by the New York State Department of Labor and can be found here: <https://www.ny.gov/programs/combating-sexual-harassment-workplace>.

## APPENDIX E



### **ESSEX COUNTY**

#### ***Office of the Purchasing Agent***

7551 Court Street, P.O. Box 217

Elizabethtown, NY 12932

518-873-3330/Fax 518-873-3339

### **GENERAL SPECIFICATIONS FOR PROCUREMENT CONTRACTS**

Adopted May 20, 1999.

## TABLE OF CONTENTS

### PART I

### Page

#### ***General Provisions***

1.	Applicability .....	5
2.	Governing Law .....	5
3.	Appendix A / Insurance .....	5
4.	Ethics Compliance .....	5
5.	Conflict of Clauses.....	5
6.	Definition.	5

#### ***Bid Submission***

7.	Bid Language & Currency.....	8
8.	Bid Opening ... ..	8
9.	Bid Submission .....	8
10.	Facsimile Submissions.....	8
11.	Authentication of Facsimile Bids.....	9
12.	Late Bids. ....	9
13.	Bid Contents .....	9
14.	Extraneous Terms .....	10
15.	Confidential/Trade Secret Materials .....	10
16.	Prevailing Wage Rates .....	10
17.	Taxes .....	12
18.	Expenses Prior to Award .....	12
19.	Advertising Bid Results .....	12
20.	Product References.....	12
21.	Recycled/Recovered Materials .....	12
22.	Products Manufactured in Public Institutions .....	13
23.	Pricing .....	13
24.	Drawings .....	13
25.	Site Inspection .....	14
26.	Samples .....	14
27.	Addenda/Interpretation .....	15

#### ***Bid Evaluation***

28.	Bid Evaluation .....	15
29.	Conditional Bid .....	15
30.	Clarification/Revisions .....	16
31.	Prompt Payment Discounts .....	16
32.	Equivalent or Identical Bids .....	16
33.	Performance Qualifications .....	16
34.	Disqualification for Past Performance .....	16
35.	Quantity Changes Prior to Award .....	16
36.	Release of Bid Evaluation Materials .....	16
37.	Time Frame for Offers .....	16

#### ***Terms & Conditions***

38.	Contract Creation/Execution .....	17
39.	Compliance With Laws, Etc. ....	17



40.	Modification of Terms .....	17
41.	Scope Changes .....	17
42.	Estimated Quantity Contracts .....	17
43.	Best Pricing Offer .....	18
44.	Purchase Orders .....	18
45.	Product Delivery .....	18
46.	Saturday & Holiday Deliveries .....	19
47.	Shipping/Receipt of Product .....	19
48.	Title & Risk of Loss .....	19
49.	Re-Weighing Product .....	19
50.	Product Substitution.....	20
51.	Rejected Product .....	20
52.	Installation .....	20
53.	Repaired or Replaced Product/Components .....	20
54.	On-Site Storage .....	20
55.	Employees/Subcontractors/Agents .....	20
56.	Assignment/Subcontractors .....	20
57.	Performance/Bid Bond .....	21
58.	Stop/Suspension of Work .....	21
59.	Cancellation .....	21
60.	Force Majeure .....	21
61.	Contract Billings .....	22
62.	Default – Authorized User .....	22
63.	Interest on Late Payments .....	22
64.	Remedies for Breach .....	23
65.	Assignment of Claim .....	23
66.	Toxic Substances .....	24
67.	Independent Contractor .....	24
68.	Security/Confidential .....	24
69.	Cooperation With Third Parties .....	24
70.	Contract Terms – Extension .....	24
71.	Warranties/Guarantees .....	24

**PART II**  
***Software/Technology***  
***General Provisions***

72.	Applicability .....	26
73.	Definitions – Part II .....	26

***Terms & Conditions***

74.	Software License Grant .....	27
75.	Enterprise License Option for Software .....	29
76.	Product Acceptance .....	31
77.	Audit of Licensed Product Usage .....	31
78.	Ownership/Title to Custom Products or Programming .....	32
79.	Proof of License .....	33
80.	Product Version .....	33
81.	Migration to Centralized Contract .....	33
82.	Notice of Product Discontinuance .....	33
83.	Reinstatement of Maintenance .....	33

84.	No Hard-stop/Passive License Monitoring .....	33
85.	Additional Warranties/Guarantees .....	34
86.	Indemnification .....	34
87.	Source Code Escrow for Licensed Products .....	34

**PART I**  
***General Provisions***

**1. APPLICABILITY** The terms and conditions set forth herein are expressly incorporated in and applicable to all procurements and resulting procurement contracts let by the Office of the Essex County Purchasing Agent where incorporated by reference in its Bid Documents. The provisions herein shall govern such procurement or contract unless expressly modified or amended by the terms of a Bid Specifications, or a negotiated Contract/Clarification document, if any. Captions are intended as descriptive and are not intended to limit or otherwise restrict the terms and conditions set forth herein.

**2. GOVERNING LAW** The laws of the State of New York shall govern and apply to the procurement, any resulting contract and for determinations in a court of competent jurisdiction in New York of any and all disputes, litigation or interpretations arising from or connected with the procurement or contract, except where expressly superseded in a specific contract letting or where the Federal supremacy clause requires otherwise. These specifications are modeled after and upon the specifications developed and used by the New York State Office of General Services for procurements by New York State.

**3. APPENDIX A / INSURANCE** The mandatory terms for all Essex County contracts are expressly incorporated herein and in all bid documents and/or resulting contracts, such terms being set forth in Appendix A (*Standard Clauses for Essex County Contracts*). Insurance requirements are also attached and incorporated herein.

**4. ETHICS COMPLIANCE** All Bidders/Contractors and their employees must comply with the requirements of the *General Municipal Law*, the *Public Officers Law*, and other State codes, rules and regulations establishing ethical standards for the conduct of business with New York State and/or municipalities. In signing the bid, Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, relationships, etc., involving Essex County and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.

**5. CONFLICT OF CLAUSES** Conflicts between procurement or contract documents shall be resolved in the following order of precedence:

**(a) Appendix A** (*Standard Clauses for Essex County Contracts*)

**(b) Contract/Clarification Documents** Writing(s) setting forth the final agreements, clarifications, terms, statement of work and/or modifications between the Bid Documents and Contractors Bid or Mini-bid.

**(c) Bid Documents** - Bid Specifications prepared by Essex County

**(d) Contractors Bid or Proposal**

**6. DEFINITIONS**

Terms used in this document shall have the following meanings:

**AGENCY OR AGENCIES** Essex County, New York, acting by or through one or more departments, boards, commissions, offices or institutions of Essex County.

**ANCILLARY PRODUCT:** Product which is purchased or licensed on a restricted use basis in conjunction with the principal manufacturers Product being acquired (e.g. may be used only in combination, or by educational institutions for research use).

**AUTHORIZED USER(S)** Agencies, or any other entity authorized by Essex County to participate in Essex County procurement contracts (including but not limited to political subdivisions, public authorities, school districts and public benefit corporations), provided that each such Agency or other entity shall be held solely responsible for liabilities or payments due as a result of its participation. The term "Authorized User" shall include "Licensees."

**BID OR BID PROPOSAL** An offer or proposal submitted by a Bidder to furnish a described product or a solution or means of achieving a practical end, at a stated price for the stated contract term.

**BIDDER** Any individual or other legal entity, (including but not limited to partnership, firm or corporation) which submits a bid in response to a Bid Solicitation. The term Bidder shall also include "offeror" and/or "contractor".

**BID DOCUMENTS** Writings setting forth the scope, terms, conditions and technical specifications for a procurement of Product. Such writings typically include, but are not limited to: Invitation for Bids (IFB), Request for Quotation (RFQ), Request for Proposals (RFP), addenda or amendments thereto, and terms and conditions which are incorporated by reference, e.g. Appendix A (*Standard Clauses for NYS Contracts*), Appendix B, (*General Specifications*). Where these General Specifications are incorporated in negotiated contracts which have not been competitively bid, the term "Bid Documents" shall be deemed to refer to the terms and conditions set forth in the negotiated contract.

**BID SOLICITATION** The notice or advertisement of an intent to purchase a specified Product by or on behalf of Authorized User(s).

**BID SPECIFICATION** A written description drafted by Essex County or an authorized user setting forth the specific terms of the intended procurement, which may include: physical or functional characteristics, the nature of a commodity or construction item, any description of the work to be performed, Products to be provided, the necessary qualifications of the Bidder, the capacity and capability of the Bidder to successfully carry out the proposed contract, or the process for achieving specific results and/or anticipated outcomes or any other requirement necessary to perform work. Where these *General Specifications* are incorporated in negotiated contracts which have not been competitively bid, the term "Bid Specifications" shall be deemed to refer to the terms and conditions set forth in the negotiated contract.

**CONTRACT** The writing(s) which contain the agreement of the Commissioner and the Bidder/Contractor setting forth the total legal obligation between the parties as determined by applicable rules of law.

**CONTRACT AWARD NOTIFICATION** An announcement to Authorized Users that a contract has been established.

**CONTRACTOR** Any successful Bidder(s) to whom a contract has been awarded by the Purchasing Agent. The term "Contractor" includes Licensors.

**COUNTY** Essex County, New York.

**EMERGENCY** An urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk.

**ERROR CORRECTIONS** Machine executable software code furnished by Contractor which corrects the Product so as to conform to the applicable warranties, performance standards and/or obligations of the Contractor.

**GROUP** A classification of Product (commodities, services or technology).

**INVITATION FOR BIDS (IFB)** A type of Bid Document which is most typically used where requirements can be stated and award will be made to the lowest responsive bid submitted by the most responsible Bidder(s).

**LATE BID** For purposes of bid openings held and conducted by the Essex County Purchasing Agent, a bid not received in such place as may be designated on the Bid Specifications or in the Office of the Essex County Purchasing Agent, at or before the date and time established in the Bid Specifications for the bid opening.

**LETTER OF ACCEPTANCE** A letter to the successful Bidder(s) indicating acceptance of its bid in response to a solicitation. Unless otherwise specified, the issuance of a Letter of Acceptance forms a contract but is not an order for Product, and Contractor should not take any action with respect to actual contract deliveries except on the basis of Purchase Orders sent from Authorized User(s).

**LICENSED SOFTWARE** Software transferred upon the terms and conditions set forth in the Contract. "Licensed Software" includes ancillary products, error corrections, upgrades, enhancements or new releases, and any deliverables due under a maintenance or service contract (e.g. patches, fixes, PTFs, programs, code or data conversion, or custom programming).

**LICENSEE** The County, or one or more Agencies or Authorized Users who acquire Product from Contractor by execution of a license in accordance with the terms and conditions of the Contract; provided that, for purposes of compliance with an individual license, the term "Licensee" shall be deemed to refer separately to the individual Authorized User(s) on whose behalf the license was executed who took receipt of the Product, and who shall be solely responsible for performance and liabilities incurred.

**LICENSOR** A Contractor who transfers rights in proprietary Product to Authorized Users in accordance with the rights and obligations specified in the Contract.

**MULTIPLE AWARD** A determination and award of a contract in the discretion of the Purchasing Agent to more than one responsive and responsible Bidder who meets the requirements of a specification, where the multiple award is made on the grounds set forth in the Bid Document in order to satisfy multiple factors and needs of Authorized Users (e.g., complexity of items, various manufacturers, differences in performance required to accomplish or produce required end results, production and distribution facilities, price, compliance with delivery requirements, geographic location or other pertinent factors).

**NEW PRODUCT RELEASES (Product Revisions)** Any commercially released revisions to the version of a Product as may be generally offered and available to Authorized Users. New releases involve a substantial revision of functionality from a previously released version of the Product.

**PROCUREMENT RECORD** Documentation by the Essex County Purchasing Agent of the decisions made and approach taken during the procurement process.

**PRODUCT** A deliverable under any Bid or Contract which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

**PURCHASE ORDER** The County's fiscal form or format which is used when making a purchase.

**REQUEST FOR PROPOSALS (RFP)** A type of Bid Document which is used for procurements where factors in addition to cost are considered and weighted in awarding the contract and where the method of award is "best value", as defined by the County's Procurement Policy and New York Law.

**REQUEST FOR QUOTATION (RFQ)** A type of Bid Document which can be used when a formal bid opening is not required (e.g. discretionary, sole source, single source or emergency purchases).

**RESPONSIBLE BIDDER** A Bidder that is determined to have skill, judgment and integrity, and that is found to be competent, reliable, experienced and qualified financially, as determined by the Purchasing Agent.

**RESPONSIVE BIDDER** A Bidder meeting the specifications or requirements prescribed in the Bid Document or solicitation, as determined by the Purchasing Agent.

**SINGLE SOURCE** A procurement where two or more offerors can supply the required Product, and the Purchasing Agent may award the contract to one Bidder over the other.

**SOLE SOURCE** A procurement where only one offeror is capable of supplying the required Product.

### ***Bid Submission***

**7. BID LANGUAGE & CURRENCY** All offers (tenders), and all information and Product documentation required by the solicitation or provided as explanation thereof, shall be submitted in English. All prices shall be expressed, and all payments shall be made, in United States Dollars (\$ US). Any offers (tenders) submitted which do not meet the above criteria will be rejected.

**8. BID OPENING** Bids may, as applicable, be opened publicly. The Purchasing Agent reserves the right at anytime to postpone or cancel a scheduled bid opening.

**9. BID SUBMISSION** The submission of a bid will be construed to mean that the bidder is fully informed as to the extent and character of the supplies, material, or equipment required and a representation that the bidder can furnish the supplies, materials, or equipment satisfactorily in complete compliance with the specifications.

All bids shall comply with the following:

**(a)** Bids are to be packaged, sealed and submitted to the location stated in the Bid Specifications. Bidders are solely responsible for timely delivery of their bids to the location set forth in the Bid Specifications prior to the stated bid opening date/time.

**(b)** A bid return envelope, if provided with the Bid Specifications, should be used with the bid sealed inside. If the bid response does not fit into the envelope, the bid envelope should be taped onto the outside of the sealed box or package with the bid inside. If using a commercial delivery company which requires use of their shipping package or envelope, Bidders sealed bid, labeled as detailed below, should be placed within the shippers sealed envelope to ensure that the bid is not prematurely opened. All bids must have a label on the outside of the package or shipping container outlining the following information:

**“BID ENCLOSED”** (bold print, all capitals)  
IFB or RFP Number  
Bid Submission date and time

In the event that a Bidder fails to provide such information on the return bid envelope or shipping material, the County reserves the right to open the shipping package or envelope to determine the proper bid number or Product group, and the date and time of bid opening. Bidder shall have no claim against the receiving entity arising from such opening and such opening shall not affect the validity of the bid or the procurement. Notwithstanding the County's right to open a bid to ascertain the foregoing information, Bidder assumes all risk of late delivery associated with the bid not being identified, packaged or labeled in accordance with the foregoing requirements.

**10. FACSIMILE SUBMISSIONS** Unless specifically authorized by the terms of the Bid Specifications,

facsimile bids ARE PROHIBITED AND SHALL NOT BE ACCEPTED. Where the bid specifications are silent as to the submission of bids by facsimile, no fax bids shall be permitted or accepted. Where specifically authorized, the following rules and conditions apply:

- (a) FAX number(s) indicated in the Bid Specifications must be used.
- (b) Access to the facsimile machine(s) is on a "first come, first serve" basis, and the Purchasing Agent bears no liability or responsibility and makes no guarantee whatsoever with respect to the Bidders access to such equipment at any specific time.
- (c) Bidders are solely responsible for submission and receipt of the entire facsimile bid by the Essex County Purchasing Agent prior to bid opening and must include on the first page of the transmission the total number of pages transmitted in the bid, including the cover page. Incomplete, ambiguous or unreadable transmissions in whole or in part may be rejected at the sole discretion of the Purchasing Agent.
- (d) Facsimile bids are fully governed by all conditions outlined in the Bid Documents and must be submitted on forms or in the format required in the Bid Specifications, including the executed signature page and acknowledgment.

**11. AUTHENTICATION OF FACSIMILE BIDS** The act of submitting a bid by facsimile transmission, when, as and if specifically authorized, including an executed signature page, shall be deemed a confirming act by Bidder which authenticates the signing of the bid.

**12. LATE BIDS** Any bid received at the specified location after the time specified will be considered a late bid. A late bid shall not be considered for award unless acceptance of the late bid is in the best interests of Essex County and either (a) no timely bids meeting the requirements of the Bid Documents are received, or (b) in the case of a multiple award, an insufficient number of timely bids were received to satisfy the multiple award. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of Essex County, shall not excuse late bid submissions. Otherwise, all late bids will not be considered and will be returned unopened to the bidder. The bidder assumes the risk of any delay in the mail or in the handling of the mail by employees of the County. Whether sent by mail or by means of personal delivery, the bidder assumes responsibility for having his bid deposited on time at the place specified.

**13. BID CONTENTS** Bids must be complete and legible. All bids must be signed. All information required by the Bid Specifications must be supplied by the Bidder on the forms or in the format specified in the Bid Specifications. No alteration, erasure or addition is to be made to the Bid Documents. Changes may be ignored by the Purchasing Agent or may be grounds for rejection of the bid. Changes, corrections and/or use of white-out in the bid or Bidders response portion of the Bid Document must be initialed by an authorized representative of the Bidder. Bidders are cautioned to verify their bids before submission, as amendments to bids or requests for withdrawal of bids received by the Purchasing Agent after the time specified for the bid opening, may not be considered. All lines must have an indication of bidders response whether it be "o", "N/A" or a dollar figure. All lines must be filled in to indicate bidder acknowledgment of the request. Bids that do not have all applicable lines filled in on bid sheet may be disqualified as a non-responsive bid. The Purchasing Agent shall not assume there is "no charge" when lines are left empty.

Bidders must submit with bid detailed specifications, circulars, warranties and all necessary data on items he proposes to furnish. This information must show clearly that the item offered meets all detailed specifications herein. The Purchasing Agent reserves the right to reject any bid if its compliance with the specifications is not clearly evident. If item offered differs from the provisions contained in these specifications such differences must be explained in detail, and bid will receive careful consideration if such deviations do not depart from the intent of these specifications and are to the best interests of Essex County as interpreted by the Purchasing Agent of Essex County.

It is the responsibility of the bidder to offer a product that meets the specifications of the manufacturer model as listed.

All stock electrical items must be listed and approved by Underwriters' Laboratories, Inc.

**14. EXTRANEOUS TERMS** Bids must conform to the terms set forth in the Bid Documents, as extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the bid non-responsive and may result in rejection of the bid.

**Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) which are attached or referenced with the submission shall not be considered part of the bid, but shall be deemed included for informational or promotional purposes only.**

Only those extraneous terms which meet all the following requirements will be considered as having been submitted as part of the Bid:

- (a) Each proposed extraneous term (addition, counter-offer, deviation, or modification) must be specifically enumerated in a writing which is not part of a pre-printed form; and
- (b) The writing must identify the particular specification requirement (if any) which Bidder rejects or proposes to modify by inclusion of the extraneous term; and
- (c) The Bidder shall enumerate the proposed addition, counteroffer, modification or deviation from the Bid Document, and the reasons therefore.

No extraneous term(s), whether or not deemed "material," shall be incorporated into a contract unless the Purchasing Agent expressly accepts each such term(s) in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of Extraneous Term(s).

**15. CONFIDENTIAL / TRADE SECRET MATERIALS** Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission. Bidders/Contractors intending to seek an exemption from disclosure of these materials under the *Freedom of Information Law* must request the exemption in writing, setting forth the reasons for the claimed exemption, at the time of submission. Acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures.

**16. PREVAILING WAGE RATES - Public Works and Building Services Contracts** If any portion of work being bid is subject to the prevailing wage rate provisions of Labor Law, the following shall apply:

**(a) "Public Works" and "Building Services" – Definitions**

**i. Public Works** *Labor Law* Article 8 applies to contracts for public improvement in which laborers, workers or mechanics are employed on a "public works" project (distinguished from public "procurement" or "service" contracts). The State, a public benefit corporation, a municipal corporation (including a school district), or a commission appointed by law must be a party to the contract. The wage and hours provision applies to any work performed by contractor or subcontractors.

**ii. Building Services** *Labor Law* Article 9 applies to contracts for building service work over \$1,500 with a public agency, which 1) involve the care or maintenance of an existing building, or 2) involve the transportation of office furniture or equipment to or from such building, or 3) involve the transportation and delivery of fossil fuel to such building, and 4) the principal purpose of which is to furnish services through use of building service employees.



**(b) Prevailing Wage Rate Applicable to Bid Submissions** A copy of the applicable prevailing wage rates to be paid or provided are attached to this solicitation. Bidders must submit bids which are based upon the prevailing hourly wages, and supplements in cash or equivalent benefits (i.e., fringe benefits and any cash or non-cash compensation which are not wages, as defined by law) that equal or exceed the applicable prevailing wage rate(s) for the location where the work is to be performed. Where the Bid Documents require the Bidder to enumerate hourly wage rates in the bid, Bidders may not submit bids based upon hourly wage rates and supplements below the applicable prevailing wage rates as established by the New York State Department of Labor. **Bids which fail to comply with this requirement will be disqualified.**

**(c) Wage Rate Payments / Changes During Contract Term** The wages to be paid under any resulting contract shall not be less than the prevailing rate of wages and supplements as set forth by law. It is required that the Contractor keep informed of all changes in the Prevailing Wage Rates during the contract term that apply to the classes of individuals supplied by the contractor on any projects which result from this contract which are subject to the provisions of the *Labor Law*. Contractor is solely liable for and must pay such required prevailing wage adjustments during the contract term as required by law.

**(d) Public Posting & Certified Payroll Records** In compliance with Article 8, Section 220 of the *Labor Law*, as amended by Chapter 565 of the Laws of 1997:

**i. Posting** The Contractor must publicly post on the work site, in a prominent and accessible place, a legible schedule of the prevailing wage rates and supplements.

**ii. Payroll Records** Contractors and sub-contractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. For public works contracts over \$25,000 where the contractor maintains no regular place of business in New York State, such records must be kept at the work site. For building services contracts, such records must be kept at the work site while work is being performed.

**iii. Submission of Certified Payroll Transcripts for Public Works Contracts Only** Contractors and sub-contractors on public works projects must submit monthly payroll transcripts to Essex County which has prepared or directs the preparation of the plans and specifications for a public works project, as set forth in the Bid Specifications. For mini-bid solicitations, the payroll records must be submitted to the entity preparing the agency mini-bid project specification. For "agency specific" bids, the payroll records should be submitted to the entity issuing the purchase order. For all other Essex County procurement contracts, such records should be submitted to the individual agency issuing the purchase order(s) for the work. Upon mutual agreement of the Contractor and Essex County, the form of submission may be submitted in a specified disk format acceptable to the Department of Labor so long as: 1) the contractor/subcontractor retains the original records; and, (2) an original signed letter by a duly authorized individual of the contractor or subcontractor attesting to the truth and accuracy of the records accompanies the disk. **This provision does not apply to building services contracts.**

**iv. Records Retention** Contractors and subcontractors must preserve such certified transcripts for a period of three years from the date of completion of work on the awarded contract.

**(e) Days Labor - Defined for Article 8, Public Works (For Purposes of Article 8 of the Labor Law)** No laborer, worker or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do all or part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week except in cases of extraordinary emergency including fire, flood or danger to life or property. "Extraordinary emergency" shall be deemed to include situations in which sufficient laborers, workers and mechanics cannot be employed to carry on public work expeditiously as a result of such

restrictions upon the number of hours and days of labor and the immediate commencement or prosecution or completion without undue delay of the public work is necessary in the judgment of the Essex County Purchasing Agent for the preservation of the contract site or for the protection of the life and limb of the persons using the contract site.

## **17. TAXES**

(a) Unless otherwise specified in the Bid Specifications or set forth in this clause, the quoted bid price includes all taxes applicable to the transaction.

(b) Purchases made by Essex County and certain non-County Authorized Users are exempt from New York State and local sales taxes and, with certain exceptions, federal excise taxes. To satisfy the requirements of the New York State Sales tax exemption, either the Purchase Order issued by a County Agency or the invoice forwarded to authorize payment for such items will be sufficient evidence that the sale by the Contractor was made to the County, an exempt organization under Section 1116 (a) (1) of the *Tax Law*. Non-County Authorized Users must offer their own proof of exemption where required. No person, firm or corporation is, however, exempt from paying the State Truck Mileage and Unemployment Insurance or Federal Social Security taxes, which remain the sole responsibility of the Bidder/Contractor. For tax free transactions under the Internal Revenue Code, the Essex County Registration Number is 14 6002889.

(c) Purchases by Authorized Users other than Essex County may be subject to such taxes, and in those instances the tax should be computed based on the bid price and added to the invoice submitted to such entity for payment.

**18. EXPENSES PRIOR TO AWARD** Essex County is not liable for any costs incurred by a Bidder in the preparation and production of a bid or for any work performed prior to contract award and/or issuance of an approved Purchase Order.

**19. ADVERTISING BID RESULTS** A Bidder in submitting a bid agrees not to use the results therefrom as a part of any commercial advertising without the prior written approval of the Purchasing Agent. In addition to any other sanctions or remedies available to it in law or equity, the Purchasing Agent may suspend from bidding on its requirements or terminate a contract of any Bidder/Contractor who violates the terms of this clause.

## **20. PRODUCT REFERENCES**

(a) **“Or Equal”** On all Bid Specifications the words “or equal” are understood to apply where a copyright brand name, trade name, catalog reference, or patented Product is referenced. References to such specific Product are intended as descriptive, not restrictive, unless otherwise stated. Comparable Product will be considered if proof of compatibility is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. The Purchasing Agents decision as to acceptance of the Product as equal shall be final.

(b) **Discrepancies in References** In the event of a discrepancy between the model number referenced in the Bid Specifications and the written description of the Products therein which cannot be reconciled, with respect to such discrepancy, then the written description shall prevail.

**21. RECYCLED OR RECOVERED MATERIALS** Upon the conditions specified in the Bid Specifications and in accordance with the laws of the State of New York, Contractors are encouraged to use recycled or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health, welfare, safety requirements or in the Bid

Specifications. Where such use is not practical, suitable, or permitted by the Bid Specifications, Contractor shall deliver new materials in accordance with the "Warranties & Guaranties" set forth below.

Refurbished or remanufactured components or items may only be accepted at the discretion of the Purchasing Agent, or upon the conditions set forth in the Bid Specifications.

Items with recycled, recovered, refurbished or remanufactured content must be identified in the bid or will be deemed new Product.

**22. PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS** Bids offering Products which are manufactured or produced in public institutions will be rejected.

## **23. PRICING**

**(a) Unit Pricing** If required by the Bid Specifications, the Bidder should insert the price per unit specified and the price extensions in decimals, not to exceed four places for each item, in the bid. In the event of a discrepancy between the unit price and the extension, the unit price shall govern unless, in the sole judgment of the Purchasing Agent, such unit pricing is obviously erroneous.

**(b) Net Pricing** Prices must be net, including transportation, customs, tariff, delivery and other charges fully prepaid by the Contractor to the destination(s) indicated in the Bid Specifications, subject only to the cash discount. If the award is to be made on another basis, transportation and other charges must be prepaid by the Contractor and added to the invoice as a separate item, unless otherwise required in the Bid Specifications.

**(c) "No Charge" Bid** When bids are requested on a number of Products as a group or Lot, a Bidder desiring to bid "no charge" on a Product in the grouping or Lot must clearly indicate such. Otherwise, such bid may be considered incomplete and be rejected, in whole or in part, at the discretion of the Purchasing Agent.

If a price is written in numbers and alpha, the alpha will govern.

Prices shall be net FOB any point in Essex County, New York. Price quoted shall include all delivery costs. Prices shall be net, including transportation and delivery charges fully prepaid by the successful bidder to destination indicated in the proposal. If award is made on any other basis, transportation charges must be prepaid by the successful bidder and added to the invoice as a separate item. In any case, title shall not pass until items have been delivered and accepted by the County.

## **24. DRAWINGS**

**(a) Drawings Submitted With Bid** When the Bid Specifications require the Bidder to furnish drawings and/or plans, such drawings and/or plans shall conform to the mandates of the Bid Documents and shall, when approved by the Purchasing Agent, be considered a part of the bid and of any resulting contract. All symbols and other representations appearing on the drawings shall be considered a part of the drawing.

**(b) Drawings Submitted During the Contract Term** Where required by the Bid Specifications to develop, maintain and deliver diagrams or other technical schematics regarding the scope of work, Contractor shall be required to develop, maintain, deliver and update such drawings on an ongoing basis at no additional charge. Contractor shall be responsible for updating drawings and plans during the contract term to reflect additions, alterations, and deletions. Such drawings and diagrams shall be delivered to the Authorized

Users representative as required by the Bid Specifications. Where required, Contractor shall furnish to Authorized User in a timely manner the required drawings representing the then current, "as modified" condition of all product included in the scope of work.

**(c) Accuracy of Drawings Submitted** All drawings shall be neat and professional in manner and shall be clearly labeled as to locations and type of product, connections and components. Drawings and diagrams are to be in compliance with accepted drafting standards. Acceptance or approval of such plans shall not relieve the Contractor from responsibility for design or other errors of any sort in the drawings or plans, or from its responsibility for performing as required, furnishing product, services or installation, or carrying out any other requirements of the intended scope of work.

**25. SITE INSPECTION** Where Bidder is required by the Bid Specifications to deliver or install Product, or to service installed product(s) or equipment, Bidder shall be given an opportunity and shall be required to inspect the site prior to submission of the Bid, including environmental or other conditions or pre-existing deficiencies in the installed product, equipment or environment, which may affect Bidders ability to deliver, install or otherwise provide the required product. All inquiries regarding such conditions may only be made in writing. Bidder shall be deemed to have knowledge of any deficiencies or conditions which such inspection or inquiry might have disclosed, and to have included the costs of repair in its bid. Bidder must provide a detailed explanation of work intended to be performed under this clause. Bidder shall be required to remedy any pre-existing deficiencies or conditions at the commencement of the contract term. Reimbursement for the cost of repairing the conditions or deficiencies shall be separately enumerated in the bid.

## **26. SAMPLES**

**(a) Standard Samples** Bid Specifications may indicate that the Product to be purchased must be equal to a standard sample on display in a place designated by the Purchasing Agent and such sample will be made available to the Bidder for examination prior to the opening date. Failure by the Bidder to examine such sample shall not entitle the Bidder to any relief from the conditions imposed by the Bid Documents.

**(b) Bidder Supplied Samples** The Purchasing Agent reserves the right to request from the Bidder/Contractor a representative sample(s) of the Product offered at any time prior to or after award of a contract. Unless otherwise instructed, samples shall be furnished within the time specified in the request. Untimely submission of a sample may constitute grounds for rejection of bid or cancellation of the Contract. Samples must be submitted free of charge and be accompanied by the Bidders name and address, any descriptive literature relating to the Product and a statement indicating how and where the sample is to be returned. Where applicable, samples must be properly labeled with the appropriate bid or Essex County contract reference.

A sample may be held by the Purchasing Agent during the entire term of the contract and for a reasonable period thereafter for comparison with deliveries. At the conclusion of the holding period the sample, where feasible, will be returned as instructed by the Bidder, at the Bidders expense and risk. Where the Bidder has failed to fully instruct the Purchasing Agent as to the return of the sample (i.e. mode and place of return, etc.) or refuses to bear the cost of its return, the sample shall become the sole property of the receiving entity at the conclusion of the holding period.

**(c) Enhanced Samples** When an approved sample exceeds the minimum specifications, all Product delivered must be of the same enhanced quality and identity as the sample. Thereafter, in the event of a Contractors default, the Purchasing Agent may procure a commodity substantially equal to the enhanced sample from other sources, charging the Contractor for any additional costs incurred.

**(d) Conformance with Sample(s)** Submission of a sample (whether or not such sample is tested by, or for, the Purchasing Agent) and approval thereof shall not relieve the Contractor from full compliance with all conditions and terms, performance related and otherwise, specified in the Bid Documents. If in the judgment of the Purchasing Agent the sample or product submitted is not in accordance with the specifications or testing requirements prescribed in the Bid Documents, the Purchasing Agent may reject the bid. If an award has been made, the Purchasing Agent may cancel the contract at the expense of the Contractor.

**(e) Testing** All samples are subject to tests in the manner and place designated by the Purchasing Agent, either prior to or after contract award. Unless otherwise stated in the Bid Specifications, Bidder Samples consumed or rendered useless by testing will not be returned to the Bidder.

**27. ADDENDA / INTERPRETATION** No verbal interpretation of the intent of any of the specifications or other Contract Documents will be made before receipt of bids. Requests for interpretations prior to receipt of bids must be presented, in writing, to the Purchasing Agent, 7551 Court Street, P.O. Box 217, Elizabethtown, NY 12932, and to be given consideration must be received by the Purchasing Agent at least seven (7) days prior to the date set for the opening of bids.

Any interpretation, and any additional information or instruction will, if issued, be in the form of a written Addendum or Addenda sent to all holders of Contract Documents at the addresses furnished therefor, at least five (5) days prior to the date of the opening of bids.

Failure of any bidder to receive any Addenda shall not relieve such bidder from any obligation under this bid as submitted. All Addenda so issued shall become a part of the Contract Documents.

### ***Bid Evaluation***

**28. BID EVALUATION** The Purchasing Agent reserves the right to accept or reject any and all bids, or separable portions of offers, and waive technicalities, irregularities, and omissions if the Purchasing Agent determines the best interests of the County will be served. The Purchasing Agent, in his/her sole discretion, may accept or reject illegible, incomplete or vague bids and his/her decision shall be final. A conditional or revocable bid which clearly communicates the terms or limitations of acceptance may be considered and contract award may be made in compliance with the Bidders conditional or revocable terms in the offer.

Where a bidder is requested to submit a bid on individual items and/or on a total sum or sums, the right is reserved to award bids on individual items or on total sums. The County reserves the right to award in whole or in part based on the lowest responsible bid.

The following three items will automatically render a bid unacceptable to Essex County:

- a. Failure to sign bid proposal page.
- b. Failure to include necessary bid deposit (as required).
- c. Failure to sign and submit non-collusive bidding certificate.

It shall be fully understood that any deviations from the inclusion of the above items will be grounds to see the bid as non-compliant and will not be considered for award.

The Purchasing Agent reserves the right to reject such bids, as in his opinion, are incomplete, conditional, obscure, or which contain irregularities of any kind including unbalanced bids. One in which the amount bid for one or more separate items is substantially out of line with the current market prices for the materials and/or work covered thereby.

**29. CONDITIONAL BID** Unless the Bid Specifications provides otherwise, a bid is not rendered non-responsive if the Bidder specifies that the award will be accepted only on all or a specified group of items or Product included in the specification. It is understood that nothing herein shall be deemed to change or alter the method of award contained in the Bid Documents.

**30. CLARIFICATIONS / REVISIONS** Prior to award, the Purchasing Agent reserves the right to seek clarifications, request bid revisions, or to request any information deemed necessary for proper evaluation of bids from all Bidders deemed to be eligible for contract award. Failure to provide requested information may result in rejection of the bid.

**31. PROMPT PAYMENT DISCOUNTS** While prompt payment discounts will not be considered in determining the low bid, the Purchasing Agent may consider any prompt payment discount in resolving bids which are otherwise tied. However, any notation indicating that the price is net, (e.g. net 30 days), shall be understood to mean only that no prompt payment discount is offered by the Bidder. The imposition of service, interest, or other charges, except pursuant to the provisions of Article 11\_A of the *State Finance Law*, which are applicable in any case, may render the bid non-responsive and may be cause for its rejection.

**32. EQUIVALENT OR IDENTICAL BIDS** In the event two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient. If two or more Bidders submit substantially equivalent bids as to pricing or other factors, the decision of the Purchasing Agent to award a contract to one or more of such Bidders shall be final.

**33. PERFORMANCE QUALIFICATIONS** The Purchasing Agent reserves the right to investigate or inspect at any time whether or not the Product, qualifications or facilities offered by the Bidder/Contractor meet the requirements set forth in the Bid Documents. Contractor shall at all times during the contract term remain responsible and responsive. A Bidder/Contractor must be prepared, if requested by the Purchasing Agent, to present evidence of experience, ability and financial standing, as well as a statement as to plant, machinery and capacity of the manufacturer for the production, distribution and servicing of the Product bid. If the Purchasing Agent determines that the conditions and terms of the Bid Documents or Contract are not complied with, or that items or Product proposed to be furnished do not meet the specified requirements, or that the qualifications, financial standing or facilities are not satisfactory, or that performance is untimely, the Purchasing Agent may reject such bid or terminate the contract. Nothing in the foregoing shall mean or imply that it is obligatory upon the Purchasing Agent to make an investigation either before or after award of a contract, but should such investigation be made, it in no way relieves the Bidder/Contractor from fulfilling all requirements and conditions of the contract.

**34. DISQUALIFICATION FOR PAST PERFORMANCE** Bidder may be disqualified from receiving awards if Bidder, or anyone in Bidders employment, has previously failed to perform satisfactorily in connection with public bidding or contracts.

**35. QUANTITY CHANGES PRIOR TO AWARD** The Purchasing Agent reserves the right, at any time prior to the award of a specific quantity contract, to alter in good faith the quantities listed in the Bid Specifications to conform with requirements. In the event such right is exercised, the lowest responsible Bidder meeting specifications will be advised of the revised requirements and afforded an opportunity to extend or reduce its bid price in relation to the changed quantities. Refusal by the low Bidder to so extend or reduce its bid price may result in the rejection of its bid and the award of such contract to the lowest responsible Bidder who accepts the revised requirements.

**36. RELEASE OF BID EVALUATION MATERIALS** Requests concerning the evaluation of bids may be submitted under the *Freedom of Information Law*. Information, other than the Bid Tabulation, shall be released as required by law after contract award. Written requests should be directed to the Purchasing Agent.

**37. TIME FRAME FOR OFFERS** The Purchasing Agent reserves the right to make awards within sixty (60) days after the date of the bid opening, during which period, bids must remain firm and cannot be withdrawn. If, however, an award is not made within the sixty (60) day period, bids shall remain firm until such later time as either a contract is awarded or the Bidder delivers to the Purchasing Agent written notice of the withdrawal of its bid. Any bid which expressly states therein that acceptance must be made within a shorter specified time, may at the sole discretion of the Purchasing Agent, be accepted or rejected.

## **TERMS & CONDITIONS**

**38. CONTRACT CREATION / EXECUTION** Except as may be otherwise provided by law or by the Purchasing Agent, upon receipt of all required approvals a Contract shall be deemed executed and created with the successful Bidder(s) upon the Purchasing Agent's mailing or electronic communication to the address on the bid of (a) a Letter of Acceptance and (b) a fully executed contract, or (c) a Purchase Order authorized by the Purchasing Agent.

**39. COMPLIANCE WITH LAWS, ETC.** The Bidder shall comply with all the provisions of the laws of the State of New York and of the United States of America which affect municipalities and municipal contracts, and any and all State and Federal rules and regulation, and of amendments and additions thereto, insofar as the same shall be applicable to any contract awarded hereunder with the same force and effect as if set forth at length herein. The Bidder's special attention is called to the following laws: *General Municipal Law* Section 1-03-d, *State Finance Law* Section 167-b prohibiting the purchase of tropical hardwood products, and the New York State Public Employee Safety & Health Act of 1980.

**40. MODIFICATION OF TERMS** The terms and conditions set forth in the Contract shall govern all transactions by Authorized User(s) under this Contract. The Contract may only be modified or amended upon mutual written agreement of the Purchasing Agent and Contractor.

The Contractor may, however, offer Authorized User(s) more advantageous pricing, payment, or other terms and conditions than those set forth in the Contract. In such event, a copy of such terms shall be furnished to the Authorized User(s) and Purchasing Agent by the Contractor.

Other than where such terms are more advantageous for the Authorized User(s) than those set forth in the Contract, no alteration or modification of the terms of the Contract, including substitution of Product, shall be valid or binding against Authorized User(s) unless authorized by the Purchasing Agent or specified in the Contract Award Notification. No such alteration or modification shall be made by unilaterally affixing such terms to Product upon delivery (including, but not limited to, attachment or inclusion of standard pre-printed order forms, product literature, "shrink wrap" terms accompanying software upon delivery, or other documents) or by incorporating such terms onto order forms, purchase orders or other documents forwarded by the Contractor for payment, notwithstanding Authorized Users subsequent acceptance of Product, or that Authorized User has subsequently processed such document for approval or payment.

**41. SCOPE CHANGES** The Purchasing Agent reserves the right, unilaterally, to require, by written order, changes by altering, adding to or deducting from the contract specifications, such changes to be within the general scope of the contract. The Purchasing Agent may make an equitable adjustment in the contract price or delivery date if the change affects the cost or time of performance.

With respect to any specific quantity stated in the contract, the Purchasing Agent reserves the right after award to order up to 20% more or less (rounded to the next highest whole number) than the specific quantities called for in the contract. Notwithstanding the foregoing, the Purchasing Agent may purchase greater or lesser percentages of contract quantities should the Purchasing Agent and Contractor so agree.

**42. ESTIMATED QUANTITY CONTRACTS** Estimated quantity contracts are expressly agreed and

understood to be made for only the quantities, if any, actually ordered during the contract term. No guarantee of any estimated quantity(s) is implied or given. Unless otherwise set forth in the Bid Specifications, contracts for services and technology are completely voluntary as to use, and therefore no quantities are guaranteed.

**43. BEST PRICING OFFER** During the contract term, if substantially the same or a smaller quantity of a Product is sold by the Contractor outside of this contract vehicle upon the same or similar terms and conditions as that of this contract at a lower price, the price under this contract shall be immediately reduced to the lower price.

**44. PURCHASE ORDERS** Unless otherwise authorized in writing by the Purchasing Agent, no Products are to be delivered or furnished by Contractor until transmittal of an official Purchase Order from the Authorized User requiring the Product. Unless terminated or canceled pursuant to the authority vested in the Purchasing Agent, Purchase Orders shall be effective and binding upon the Contractor when placed in the mail or electronically transmitted prior to the termination of the contract period, addressed to the Contractor at the address set forth in the Contract for receipt of orders, or in the Contract Award Notification.

All Purchase Orders issued pursuant to contracts let by the Purchasing Agent must bear the appropriate contract number and, if necessary, required State approvals. Unless otherwise specified, all Purchase Orders against centralized contracts will be placed by Authorized Users directly with the Contractor and any discrepancy between the terms stated on the vendors order form, confirmation or acknowledgment, and the contract terms shall be resolved in favor of the terms most favorable to the Authorized User.

If, with respect to an agency specific contract, a Purchase Order is not received within two weeks after the issuance of a Contract Award Notification, it is the responsibility of the Contractor to request in writing that the appropriate Authorized User forward a Purchase Order. If, thereafter, a Purchase Order is not received within a reasonable period of time, the Contractor shall promptly notify the appropriate purchasing officer in Essex County. Failure to timely notify such officer may, in the discretion of the Purchasing Agent and without cost to the State, result in the canceling of such requirement by the Purchasing Agent with, at the Purchasing Agents discretion, a corresponding reduction in the contract quantity and price.

**45. PRODUCT DELIVERY** It shall be understood that with respect to contract deliveries, time is of the essence. Delivery must be made as ordered and in accordance with the terms of the contract. Unless otherwise specified in the Bid Specifications, delivery shall be made within thirty calendar days after receipt of a purchase order by the Contractor. The decision of the Purchasing Agent as to compliance with delivery terms shall be final. The burden of proof for delay in receipt of Purchase Order shall rest with the Contractor. In all instances of a potential or actual delay in delivery, the Contractor shall immediately notify the Purchasing Agent and the Authorized User, and confirm in writing the explanation of the delay, and take appropriate action to avoid any subsequent late deliveries. Any extension of the time for delivery must be requested in writing by the Contractor and approved in writing by the Purchasing Agent. Failure to meet such time schedule may be grounds for cancellation of the order or, in the Purchasing Agents discretion, the Contract.

The County must be notified twenty-four (24) hours in advance of delivery. The County reserves the right to deny acceptance of delivery if this notice is not given, at no cost to the County.

The successful bidder shall be responsible for delivery of items in good condition at point of destination, and shall file with the carrier all claims for breakage, imperfections, and other losses, which will be deducted from invoices. The Purchasing Agent will note for the benefit of successful bidder when packages are not received in good condition. Carton shall be labeled with purchase order or contract number, successful bidders name and general statement of contents. Failure to comply with this condition shall be considered sufficient reason for refusal to accept the goods.



Unless otherwise stated in the specifications, all items must be delivered into and placed at a point within the building as directed by the shipping instructions or the Purchasing Agent. The successful bidder will be required to furnish proof of delivery in every instance.

Unloading and placing of equipment and furniture is the responsibility of the successful bidder, and the County accepts no responsibility for unloading and placing of equipment. Any costs incurred due to the failure of the successful bidder to comply with this requirement will be charged to him. No help for unloading will be provided by the County, and suppliers should notify their truckers accordingly.

All deliveries shall be accompanied by delivery tickets or packing slips. Ticket shall contain the following information for each item delivered:

Contract Number and/or Purchase Order Number  
Name of Article  
Item Number (if applicable)  
Quantity  
Name of the Successful Bidder

**46. SATURDAY & HOLIDAY DELIVERIES** Unless otherwise specified in the Bid Specifications or by an Authorized User, deliveries will not be scheduled for Saturdays, Sundays or legal holidays observed by the State of New York except of Product for daily consumption or where an emergency exists or the delivery is a replacement or is late, in which event the convenience of the Authorized User shall govern.

#### **47. SHIPPING / RECEIPT OF PRODUCT**

(a) **Packaging** Tangible Product shall be securely and properly packed for shipment, storage and stocking in appropriate, clearly labeled shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases or other types of containers. The container shall become and remain the property of the receiving entity unless otherwise specified in the contract documents.

(b) **Shipping Charges** Contractor shall be responsible for insuring that the Bill of Lading states "charges prepaid" for all shipments. Unless otherwise stated in the Bid Specifications, all deliveries shall be deemed to be FOB Destination tailgate delivery at the dock of the Authorized User. Unless otherwise agreed, items purchased at a price F.O.B. Shipping point plus transportation charges are understood to not relieve the contractor from responsibility for safe and proper delivery notwithstanding the Authorized Users payment of transportation charges.

(c) **Receipt of Product** The Contractor shall be solely responsible for assuring that deliveries are made to personnel authorized to accept delivery on behalf of the Authorized User. Any losses resulting from the Contractors failure to deliver Product to authorized personnel shall be borne exclusively by the Contractor.

**48. TITLE AND RISK OF LOSS** Notwithstanding the form of shipment, title and risk of loss shall not pass from the Contractor to the Authorized User until the Products have been received, inspected and accepted by the receiving entity. Acceptance shall occur within a reasonable time or in accordance with such other defined acceptance period as may be specified in the Bid Specifications. Mere acknowledgment by Authorized User personnel of the delivery or receipt of goods (e.g. signed bill of lading) shall not be deemed or construed as acceptance of the Products received. Any delivery of Product which is substandard or does not comply with the Contract terms, may be rejected or accepted on an adjusted price basis, as determined by the Purchasing Agent.

**49. RE-WEIGHING PRODUCT** Deliveries are subject to re-weighing at the point of destination by the receiving entity. If shrinkage occurs which exceeds that normally allowable in the trade, the receiving

entity shall have the option to require delivery of the difference in quantity, or to reduce the payment accordingly.

**50. PRODUCT SUBSTITUTION** In the event a specified manufacturers Product listed in the Contractors Bid becomes unavailable or cannot be supplied by the Contractor for any reason (except as provided for in the Force Majeure Clause below) a Product deemed by the Purchasing Agent to be the equal or better of the specified commodity or service must be substituted by the Contractor at no additional cost or expense to the Authorized User. Unless otherwise specified, any substitution of Product prior to the Purchasing Agents approval may be cause for cancellation of contract.

**51. REJECTED PRODUCT** When Products are rejected, they must be removed by the Contractor from the premises of the receiving entity within ten days of notification of rejection by Authorized User. Upon rejection notification, risk of loss of rejected or non-conforming Product shall remain on Contractor. Rejected items not removed by the Contractor within ten days of notification shall be regarded as abandoned by the Contractor, and the Authorized User shall have the right to dispose of the items as its own property. The Contractor shall promptly reimburse the Authorized User for any and all costs and expenses incurred in storage or effecting removal or disposition.

**52. INSTALLATION** Where installation is required, Bidder shall be responsible for placing and installing the equipment in the required locations. All materials used in the installation shall be of good quality and shall be free from any and all defects which would mar the appearance of the equipment or render it structurally unsound. Installation includes the furnishing of any equipment, rigging and materials required to install or replace the Product in the proper location. The Contractor shall protect the site from damage for all its work and shall repair damages or injury of any kind caused by the Contractor, its employees, officers or agents. If any alteration, dismantling or excavation, etc. is required to effect installation, the Contractor shall thereafter promptly restore the structure or site to its original condition. Work shall be performed so as to cause the least inconvenience to the Authorized User(s) and with proper consideration for the rights of other contractors or workers. The Contractor shall promptly perform its work and shall coordinate its activities with those of other contractors. The Contractor shall clean up and remove all debris and rubbish from its work as required or directed. Upon completion of the work, the building and surrounding area of work shall be left clean and in a neat, unobstructed condition, and everything in satisfactory repair and order.

**53. REPAIRED OR REPLACED PRODUCT / COMPONENTS** Where the Contractor is required to repair, replace or substitute Product or components under the Contract, the repaired, replaced or substituted Product shall be subject to all terms and conditions for new Product set forth in the contract, including product warranties.

**54. ON-SITE STORAGE** Materials, equipment or supplies may be stored at the County/s or Authorized User's site at the Contractors sole risk and only with the approval of, as the case may be, the County or the Authorized User.

**55. EMPLOYEES / SUBCONTRACTORS / AGENTS** All employees, subcontractors or agents performing work under the contract must be trained technicians who meet or exceed the technical and training qualifications set forth in the Bid Specifications or the Bid, whichever is greater, and must comply with all rules and requirements of the Contract. The Purchasing Agent reserves the right to conduct a security background check or otherwise approve any employee or agent furnished by Contractor and to refuse access to or require replacement of any personnel for cause, including but not limited to, technical or training qualifications, quality of work or change in security status or non-compliance with Authorized Users security or other requirements. Such approval shall not relieve the Contractor of the obligation to perform all work in compliance with the contract terms. The Purchasing Agent reserves the right to reject and/or bar from the facility for cause any employee, subcontractor, or agents of the Contractor.

**56. ASSIGNMENT / SUBCONTRACTORS** The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the contract or its right, title or interest therein, or its power to execute such contract to any other person, company, firm or corporation in performance of the contract, other than the assignment of the right to receive moneys due, without the prior written consent of Essex County. Prior to an assignment of the right to receive moneys becoming effective, Contractor shall file a written notice of such assignment simultaneously with Essex County and participating Authorized User(s).

The Purchasing Agent reserves the right to reject any proposed subcontractor, assignee or supplier for bona fide business reasons, which may include, but are not limited to: that the proposed transferee is on the Department of Labors list of companies with which New York State cannot do business; the Purchasing Agent determines that the company is not qualified; unsatisfactory contract performance or service has been previously provided; or attempts were not made to solicit minority and womens business enterprises (M/WBE) bidders for the subcontract.

**57. PERFORMANCE / BID BOND** Essex County reserves the right to require the Bidder/Contractor to furnish without additional cost, a performance, payment or bid bond or negotiable irrevocable letter of credit or other form of security for the faithful performance of the contract, whenever the Purchasing Agent in his/her sole discretion deems such bond or security to be in Essex County's best interest. Where required, such bond or other security shall be in the form prescribed by the Purchasing Agent.

**58. STOP / SUSPENSION OF WORK**

(a) **Stop Work Order** The Purchasing Agent reserves the right to stop the work covered by this contract at any time that the successful Contractor becomes unable or incapable of performing the work or meeting any requirements or qualifications set forth in the contract. In the event of such stopping, the Purchasing Agent shall have the right to arrange for the completion of the work in such manner as it may deem advisable and if the cost thereof exceeds the amount of the bid, the successful Contractor shall be liable for any such cost on account thereof.

(b) **Suspension of Work Order** The Purchasing Agent, in his/her sole discretion, reserves the right to suspend any or all activities under this contract, at anytime, in the best interests of the State or Issuing Entity. In the event of such suspension, the contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze on County spending, declaration of emergency, or other such circumstances. Upon issuance of such suspension of work, the Contractor is not to accept any purchase orders, as specified in the Suspension Order. Activity may resume at such time as the Purchasing Agent issues a formal written notice authorizing a resumption of work.

**59. CANCELLATION** A contract may be canceled by the Purchasing Agent, and/or an Authorized User may cancel its participation, license or service order under the contract, at the Contractors expense upon non-performance, or upon a determination that Contractor is non-responsive, or non-responsible.

**60. FORCE MAJEURE** The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor negligence of the Contractor, its officers, employees or agents contributed to such delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires or floods, or other similar cause beyond the control of the Contractor, or for any of the foregoing which affect subcontractors or suppliers and no alternate source of supply is available to the Contractor. In such event, Contractor shall notify the Purchasing Agent, by certified or registered mail, of the delay or potential delay and the cause(s) thereof either (a) within ten (10) calendar days after the cause which creates or will create the delay first arose if the Contractor could reasonably foresee that a delay could occur by reason thereof, or (b), if delay is not reasonably foreseeable, within five (5) calendar days after the date the Contractor first had reason to believe a delay could result. The foregoing shall constitute the Contractors sole remedy or excuse with respect to such delay. In the

event performance is suspended or delayed, in whole or in part, by reason of any of the aforesaid causes or occurrences and proper notification is given the Purchasing Agent, any performance so suspended or delayed shall be performed by the Contractor at no increased cost, promptly after such disabilities have ceased to exist unless it is determined in the sole discretion of the Purchasing Agent that the delay will significantly impair the value of the contract to the County or to Authorized Users, whereupon the Purchasing Agent may:

- (a) Accept allocated performance or deliveries from the Contractor. The Contractor, however, hereby agrees to grant preferential treatment to County Agencies with respect to Product subjected to allocation; and/or
- (b) Purchase from other sources (without recourse to and by the Contractor for the costs and expenses thereof) to replace all or part of the Products which are the subject of the delay, which purchases may be deducted from the contract quantity; or
- (c) Terminate the contract or the portion thereof which is subject to delivery delays, and thereby discharge any unexecuted portion of the contract or the relative part thereof.

**61. CONTRACT BILLINGS** Contractor shall provide complete and accurate billing invoices to each Authorized User in order to receive payment. Billings for Agencies must contain all information required by the County Treasurer and/or Auditor. The County Treasurer shall render payment for Agency purchases, and such payment shall be made in accordance with ordinary County procedures and practices. Payment of contract purchases made by Authorized Users other than Agencies shall be billed directly by Contractor on invoices/vouchers, together with complete and accurate supporting documentation as required by the Authorized User.

Submission of an invoice and payment thereof shall not preclude the Purchasing Agent from reimbursement or demanding a price adjustment in any case where the Product delivered is found to deviate from the terms and conditions of the bid and award documents.

**62. DEFAULT - AUTHORIZED USER** An Authorized Users breach shall not be deemed a breach of the centralized contract. In the event a participating Authorized User fails to make payment to the Contractor for Products delivered, accepted and properly invoiced, within 60 days of such delivery and acceptance, the Contractor may, upon 10 days advance written notice to both the Purchasing Agent and the Authorized Users purchasing official, suspend additional shipments of Product or provision of services to such entity until such time as reasonable arrangements have been made and assurances given by such entity for current and future contract payments.

Notwithstanding the foregoing, the Contractor shall, at least 10 days prior to declaring a breach of contract by any Authorized User, by certified or registered mail, notify both the Purchasing Agent and the purchasing official of the breaching Authorized User of the specific facts, circumstances and grounds upon which a breach will be declared. It is understood, however, that if the Contractors basis for declaring a breach is insufficient, the Contractors declaration of breach and failure to service an Authorized User shall constitute a breach of its contract and the County or Authorized User may thereafter utilize any remedy available at law or equity.

### **63. INTEREST ON LATE PAYMENTS**

- (a) **County Agencies** The payment of interest on certain payments due and owed by a County agency may be made in accordance with Section 3-a of the *General Municipal Law* at the rate of three percent (3%) per annum.
- (b) **By Non-County Agencies** The terms of Article 11-A apply only to procurements by and the consequent payment obligations of the County. Neither expressly nor by any implication is the County responsible for payments on any purchases made by a Non-County Agency

Authorized User.

**(c) By Contractor** Should the Contractor be liable for any payments to the County hereunder, interest, late payment charges and collection fee charges will be determined and assessed pursuant to Section 18 of the *State Finance Law* to the same extent as though the contract was with the State of New York rather than the County.

**64. REMEDIES FOR BREACH** It is understood and agreed that all rights and remedies afforded below shall be in addition to all remedies or actions otherwise authorized or permitted by law:

**(a) Cover / Substitute Performance** Upon the failure of the Contractor to properly perform within the time specified, failure to provide acceptable service, to make immediate replacement of rejected Product when so requested, or upon the revocation of the Contract by the Purchasing Agent for cause, or upon repudiation of the contract by the Contractor, the Purchasing Agent may, with or without formally bidding same:

i. Purchase from other sources to replace the Product rejected, revoked, not timely delivered or repudiated; or

ii. If after making reasonable attempts, under the circumstances then existing, to timely provide acceptable service or acquire replacement product of equal or comparable quality, the Purchasing Agent is unsuccessful, the Purchasing Agent may acquire acceptable service or replacement product of lesser or greater quality.

Such purchases may, in the discretion of the Purchasing Agent, be deducted from the contract quantity.

**(b) Withhold Payment** In any case where a question of non-performance by Contractor arises, payment may be withheld in whole or in part at the discretion of the Purchasing Agent. Should the amount withheld be finally paid, a cash discount originally offered may be taken as if no delay in payment had occurred.

**(c) Reimbursement of Costs Incurred** The Contractor agrees to reimburse the County and/or Authorized User promptly for any and all additional costs and expenses incurred for acquiring acceptable services, and/or replacement Product. Should the cost of cover be less than the contract price, the Contractor shall have no claim to the difference. The Contractor covenants and agrees that in the event suit is successfully prosecuted for any default on the part of the Contractor, all costs and expenses expended or incurred by the County or Authorized User in connection therewith, including reasonable attorneys fees, shall be paid by the Contractor.

Where the Contractor fails to timely deliver pursuant to the guaranteed delivery terms of the contract, the Purchasing Agent may authorize an ordering Authorized User to rent substitute equipment temporarily. Any sums expended for such rental shall, upon demand, be reimbursed to the Authorized User promptly by the Contractor or deducted by the Authorized User from payments due or to become due the Contractor on the same or another transaction.

**(d) Deduction / Credit** Sums due as a result of these remedies may be deducted or offset by the County or Authorized User from payments due, or to become due, the Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion the Contractor shall pay to the County or Authorized User the amount of such claim or portion of the claim still outstanding, on demand. The Purchasing Agent reserves the right to determine the disposition of any rebates, settlements, restitution, liquidated damages, etc. which arise from the administration of the contract.

**65. ASSIGNMENT OF CLAIM** Contractor hereby assigns to the County any and all its claims for overcharges associated with this contract which may arise under the antitrust laws of the United States, 15 U.S.C. Section 1, *et seq.* and the antitrust laws of the State of New York, *General Business Law* Section 340, *et seq.*

**66. TOXIC SUBSTANCES** Each Contractor furnishing a toxic substance as defined by Section 875 of the *Labor Law*, shall provide such Authorized User with not less than two copies of a material safety data sheet, which sheet shall include for each such substance the information outlined in Section 876 of the *Labor Law*.

Before any chemical product is used or applied on or in any building, a copy of the product label and Material Safety Data Sheet must be provided to and approved by the user agency representative.

**67. INDEPENDENT CONTRACTOR** It is understood and agreed that the legal status of the Contractor, its agents, officers and employees under this Contract is that of an independent contractor, and in no manner shall they be deemed employees of the County or Authorized User, and therefore are not entitled to any of the benefits associated with such employment. The Contractor agrees, during the term of this contract, to maintain at Contractors expense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including workers compensation, disability and unemployment insurance, and to provide the Authorized User with certification of such insurance upon request. The Contractor remains responsible for all applicable federal, state and local taxes, and all FICA contributions.

**68. SECURITY / CONFIDENTIALITY** Contractor warrants, covenants and represents that it will comply fully with all security procedures of the County and any Authorized User(s) in performance of the Contract.

Contractor further warrants, covenants and represents that any confidential information obtained by Contractor, its agents, subcontractors, officers, or employees in the course of performing its obligations, including without limitation, security procedures, business operations information, or commercial proprietary information in the possession of the County or any Authorized User hereunder or received from another third party, will not be divulged to any third parties. Contractor shall not be required to keep confidential any such confidential material which is publicly available through no fault of Contractor, independently developed by Contractor without reliance on confidential information of the County or Authorized User, or otherwise obtained under the Freedom of Information Act or other applicable New York State Laws and Regulations. This warranty shall survive termination of this Contract for a period of five (5) years. Contractor further agrees to take appropriate steps to instruct its personnel, agents, officers and any subcontractors regarding the obligations arising under this clause to insure such confidentiality.

**69. COOPERATION WITH THIRD PARTIES** The Contractor shall be responsible for fully cooperating with any third party agents, including but not limited to subcontractors of the Authorized User, relating to delivery of product or coordination of services.

**70. CONTRACT TERM - EXTENSION** In addition to any stated renewal periods in the Contract, any contract or unit portion thereof let by the Purchasing Agent may be extended by the Purchasing Agent for an additional period(s) of up to one year (cumulatively) with the written concurrence of the Contractor.

**71. WARRANTIES & GUARANTEES** Contractor hereby warrants and guarantees:

- (a) To fully defend, indemnify and save harmless the County, Authorized Users and their respective officers, agents and employees from suits, actions, damages and costs of every name and description arising out of the acts or omissions of Contractor, its officers, employees,

subcontractors, partners, or agents, in any performance under this contract including: i) personal injury, damage to real or personal tangible or intangible property, without limitation; ii) negligence, either active or passive, without limitation, or iii) infringement of any law or of a United States Letter Patent with respect to the Products furnished, or of any copyright, trademark, trade secret or other third party intellectual proprietary rights, without limitation, provided that the County or Authorized User shall give Contractor: (a) prompt written notice of any action, claim or threat of infringement suit, or other suit, promptness of which shall be established by Authorized User upon the furnishing of written notice and verified receipt, (b) the opportunity to take over, settle or defend such action, claim or suit at Bidders sole expense, and (c) assistance in the defense of any such action at the expense of Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the County or Authorized User may require Bidder/Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Purchasing Agent shall require.

**(b)** Contractor warrants full ownership, clear title free of all liens, or perpetual license rights to any Products transferred to Authorized User under this Contract, and Contractor shall be solely liable for any costs of acquisition associated therewith without limitation. Contractor warrants that Authorized User will have undisturbed, peaceful use of the Products, including, without limitation, software, object or source codes, custom programming or third party intellectual property rights incorporated or embedded therein, and training modules or Documentation. Contractor fully indemnifies the County and Authorized User for any loss, damages or actions arising from a breach of said warranty without limitation.

**(c)** To pay, at its sole expense, all applicable permits, licenses, tariffs, tolls and fees and give all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the contract.

**(d)** Unless recycled or recovered materials are available in accordance with the "Recycled & Recovered Materials" clause, Product offered shall be standard new equipment, current model of regular stock product with all parts regularly used with the type of equipment offered; and no attachment or part has been substituted or applied contrary to the manufacturers recommendations and standard practice. Every Product, including any substituted or replacement unit delivered, must be guaranteed against faulty material and workmanship for a period of one year from and after the date the unit is accepted unless otherwise specified by the County or Authorized User. Notwithstanding the foregoing, when the manufacturers standard guarantee for Product or any component thereof exceeds one year, the longer guarantee period shall apply to such unit or component thereof delivered under this contract. Furthermore, the Contractor agrees to extend its warranty period with regard to any Product delivered by the cumulative periods of time, after notification, during which the Product requires servicing or replacement (down time) or is in the possession of the Contractor, its agents, officers or employees. If during the regular or extended warranty periods faults develop, the Contractor shall promptly repair or, upon demand, replace the defective unit or component part affected. All costs for labor and material and transportation incurred to repair or replace defective goods during the warranty periods shall be borne solely by the Contractor, and the County or Authorized User shall in no event be liable or responsible therefore. This warranty shall survive any termination of the contract in accordance with the warranty term.

**(e)** Where the provision of services requires the replacement or repair of Product, any replaced or repaired component, part or Product shall be new and shall, if available, be replaced by the original manufacturers component, part or Product. All proposed substitutes for the original manufacturers installed Product must be approved by the Authorized User before installation. The Product or part shall be equal to or of better quality than the original Product being replaced. Any Product replaced by the Contractor under the contract shall be guaranteed for one (1) year from the date of replacement and replaced at no cost to the Authorized User if found defective during that time.

(f) Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the Purchasing Agent that it meets or exceeds all requirements of the bid and any applicable laws, including but not limited to, permits, insurance coverage, licensing, proof of coverage for workman's compensation, and shall provide such proof as required by the Purchasing Agent. Failure to do so may constitute grounds for the County to cancel or suspend this contract, in whole or in part, or to take any other action deemed necessary by the Purchasing Agent.

The Contractor further warrants and guarantees:

- i. His/Her/Its products against defective material or workmanship and to repair or replace any damages or marring occasioned in transit.
- ii. To furnish adequate protection from damage for all work and repair damages of any kind for which he or his workmen are responsible, to the building or equipment, to his own work, or to the work of other successful bidders.
- iii. To carry adequate insurance to protect the County from loss in case of accident, fire, theft, etc.
- iv. That all deliveries will be equal to the accepted bid sample.
- v. That the equipment delivered is standard, new, latest model of regular stock product or as required by the specifications; also that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice. Every unit delivered must be guaranteed against faulty material and workmanship for a period of at least one year from date of delivery. If during this period such faults develop, the successful bidder agrees to replace the unit or the part affected without cost to the County. Any merchandise provided under the contract which is or becomes defective during the guarantee period shall be replaced by the successful bidder free of charge with the specific understanding that all replacements shall carry the same guarantee as the original equipment. The successful bidder shall make any such replacement immediately upon receiving notice from the County.
- vi. That all manufacturers product warranties and guarantees shall be furnished to the County, and that the County's rights thereunder shall not be in any way impaired or limited.

## **GENERAL**

**72. APPLICABILITY** In addition to the terms contained in **Part I (General - All Procurements)**, the terms contained in **Part II (Software & Technology Procurements)** apply to software and technology procurements.

## **73. DEFINITIONS - Part II**

**DOCUMENTATION** The complete set of manuals (e.g. user, installation, instruction or diagnostic manuals) in either hard or electronic copy, necessary to enable an Authorized User to properly test, install, operate and enjoy full use of the Product in accordance with the license rights.

**ENTERPRISE** The business operations in the United States of a Licensee or Enterprise Participant, without regard to geographic location where such operations are performed or the entity actually performing such operations on behalf of Licensee or Enterprise Participant. For the County of New York, "business operations" shall be defined as the business operations of all Agencies, as defined in Part I.



**ENTERPRISE LICENSE** A contract which grants Enterprise Participants unlimited license rights to access, use and/or execute Product within the Enterprise.

**ENTERPRISE PARTICIPANTS** One or more Licensees, as defined in Part I, participating in an Enterprise License.

**LICENSE EFFECTIVE DATE** The date Product is delivered to an Authorized User. Where a License involves Licensees right to copy a previously licensed and delivered Master Copy of a Program, the license effective date for additional copies shall be deemed to be the date on which the Purchase Order is executed.

**LOGICAL PARTITION** A subset of the processing power within a CEC which has been divided through hardware and/or software means (i.e. *Processor Resources/System Manager [PR/SM]*) so as to limit the total processing power which is accessible by an operating system image by individual users or individual software products.

**OBJECT CODE** The machine executable code that can be directly executed by a computers central processing unit(s).

**PHYSICAL PARTITION** A subset of the processing power within a CEC which has been derived through hardware means so as to limit the total processing power accessible by an operating system image by individual users or individual Products.

**SITE** The location (street address) where Product will be executed.

**SOURCE CODE** The programming statements or instructions written and expressed in any language understandable by a human being skilled in the art which are translated by a language compiler to produce executable machine Object Code.

**TERMS OF LICENSE** The terms and conditions set forth in the Contract which are in effect and applicable to a Product order at the time of order placement, and only such additional terms as are consistent therewith or more advantageous to the Authorized User as are set forth on the individual Product order form executed and approved by both Authorized User and Contractor.

**VIRUS** Any computer code, whether or not written or conceived by Contractor, which disrupts, disables, harms, or otherwise impedes in any manner the operation of the Product, or any other associated software, firmware, hardware, or computer system (such as local area or wide-area networks), including aesthetic disruptions or distortions, but does not include security keys or other such devices installed by Product manufacturer.

## **TERMS AND CONDITIONS**

**74. SOFTWARE LICENSE GRANT** *Unless otherwise set forth in the Bid Specifications or Contract, where Product is acquired on a licensed basis the following shall constitute the license grant:*

(a) **License Scope** Licensee is granted a non-exclusive, perpetual license to use, execute, reproduce, display, perform, or merge the Product with other product within its business enterprise in the United States. Licensee shall have the right to use and distribute modifications or customizations of the Product to and for use by any Authorized Users otherwise licensed to use the product, provided that any modifications, however extensive, shall not diminish manufacturers proprietary title or interest. No license, right or interest in any trademark, trade name, or service mark is granted hereunder.

(b) **License Term** The license term shall commence upon the License Effective Date. Where the terms of license permit licensing on a non-perpetual basis, the license term stated in

the Contract shall be extended by the time periods allowed for testing and acceptance.

**(c) Licensed Documentation** Contractor hereby grants to Licensee a perpetual license right to make, reproduce (including downloading electronic copies of the Product) and distribute, either electronically or otherwise, copies of Product Documentation as necessary to enjoy full use of the Product. If commercially available, Licensee shall have the option to require the Contractor to deliver, at Contractors expense: a) One (1) hard copy and One (1) Master Electronic Copy of the Documentation in diskette or CD-ROM format; or b) hard copies of the Product Documentation by type of license in the following amounts, unless otherwise mutually agreed:

- Individual/Named User License – 1 copy per License
- Concurrent Users – 8 copies per site
- Processing Capacity – 8 copies per site

**(d) Product Use** Product may be accessed, used, executed, reproduced, displayed, performed by Licensee to service all Authorized Users of the machine on which Product is installed, up to the capacity measured by the applicable licensing unit stated in the terms of license (i.e. payroll size, number of employees, CPU, MIPS, MSU, concurrent user, workstation).

**(e) Permitted License Transfers** As Licensee's business operations may be altered, expanded or diminished, licenses granted hereunder may be transferred or combined for use at an alternative or consolidated Authorized User site not originally specified in the license, including transfers between Agencies ("permitted license transfers"). Licensee(s) do not have to obtain the approval of Contractor for permitted license transfers, but must give thirty (30) days prior written notice to Contractor of such move(s) and certify in writing that the Product is not in use at the prior site. There shall be no additional license or other transfer fees due Contractor, provided that: i) the maximum capacity of the consolidated machine is equal to the combined individual license capacity of all licenses running at the consolidated or transferred site. (e.g., named users, seats, or MIPS); and ii) that, if the maximum capacity of the consolidated machine is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system so as to restrict use and access to the Product to that unit of licensed capacity solely dedicated to beneficial use for Licensee.

**(f) Restricted Use By Outsourcers / Facilities Management, Service Bureaus / or Other Third Parties** Outsourcers, facilities management or service bureaus retained by Licensee shall have the right to use the Product to maintain Licensee's business operations, including data processing, for the time period that they are engaged in such activities, provided that: 1) Licensee gives notice to Contractor of such party, site of intended use of the Product, and means of access; and 2) such party has executed, or agrees to execute, the Product manufacturers standard nondisclosure or restricted use agreement which executed agreement shall be accepted by the Contractor ("NonDisclosure Agreement"); and 3) if such party is engaged in the business of facility management, outsourcing, service bureau or other services, such third party will maintain a logical or physical partition within its computer system so as to restrict use and access to the program to that portion solely dedicated to beneficial use for Licensee. In no event shall Licensee assume any liability for third partys compliance with the terms of the Non-Disclosure Agreement, nor shall the Non-Disclosure Agreement create or impose any liabilities on the County or Licensee.

Any third party with whom a Licensee has a relationship for a state function or business operation, shall have the temporary right to use Product (using, for example, but not limited to, JAVA Applets), provided that such use shall be limited to the time period during which the third party is using the Product for the stated function or business activity.

**(g) Archival Back-Up and Disaster Recovery** Licensee may use and copy the Product and related Documentation in connection with: 1) reproducing a reasonable number of copies of the Product for archival backup and disaster recovery procedures in the event of destruction or corruption of the Product or disasters or emergencies which require Licensee to restore backup(s) or to initiate disaster recovery procedures for its platform or operating systems; 2) reproducing a reasonable number of copies of the Product and related documentation for cold site storage. "Cold Site" storage shall be defined as a restorable back-up copy of the Product not to be installed until and after the declaration by the Licensee of a disaster; 3) reproducing a back-up copy of the Product to run for a reasonable period of time in conjunction with a documented consolidation or transfer otherwise allowed under paragraph (F) above. "Disaster Recovery" shall be defined as the installation and storage of Product in ready-to-execute, back-up computer systems prior to disaster or breakdown which is not used for active production or development.

**(h) Confidentiality Restrictions** The Product is a trade secret and proprietary product. Licensee and its employees will keep the Product strictly confidential, and Licensee will not disclose or otherwise distribute or reproduce any Product to anyone other than as authorized under the terms of license. Licensee will not remove or destroy any proprietary markings of Contractor.

**(i) Restricted Use by Licensee** Except as expressly authorized by the terms of license, Licensee shall not:

- a. Copy the Product;
- b. Cause or permit reverse compilation or reverse assembly of all or any portion of the Product;
- c. Distribute, disclose, market, rent, lease or transfer to any third party any portion of the Product or the Documentation, or use the Product or Documentation in any service bureau arrangement;
- d. Disclose the results of Product performance benchmarks to any third party who is not an Authorized User without prior notice to Contractor;
- e. Export the Licensed Software in violation of any U.S. Department of Commerce export administration regulations.

**75. ENTERPRISE LICENSE OPTION FOR SOFTWARE** Multiple Authorized Users may license any Product offered under the Contract on behalf of their collective business operations. An Enterprise License shall incorporate the terms set forth in this Part II and the pricing set forth in the Contract, and additionally the following terms:

**(a) Enterprise – Defined** Any Authorized User may be an Enterprise Participant. Enterprise Participants will be enumerated in the Enterprise License, including: i) contact name, ship to and main billing address of each Enterprise Participant, ii) street address of the included End User sites of each Enterprise Participant. The originally defined Enterprise may be modified at any time thereafter, including deletion or addition of Enterprise Participants, sites ownership to locations, provided that Contractor is given written notice and that any additional capacity required by such addition is licensed in accordance with the Enterprise License terms.

**(b) Product Use** Product licensed under this Enterprise Option shall be licensed with the rights set forth in this Part II, without reference to a specific designated system or Licensee, up to the maximum licensed capacity. Product may be used and freely transferable anywhere

within the defined Enterprise, including higher or lower performance machines, and Enterprise Participants will not incur an increase in license, support or other charges provided that the aggregate utilization of the Product does not exceed the aggregate Enterprise Licensed capacity.

**(c) Submission of Orders, Billing and Usage Reporting** An Enterprise may be established for order placement and billing as either a "single" or "multiple" point of contact, at Licensees option. Where designated as a "single", one Enterprise Participant shall be designated as the lead agency and central point for submission of Purchase Orders, usage reporting and billing. Where designated as "multiple" point of contact, each designated Enterprise Participant shall be responsible for submission of Purchase Orders, reporting and billing with regard to its use of Enterprise Licensed Product. For either single or multiple point of contact Enterprises, a) Contractor agrees to hold each Enterprise Participant solely responsible for payment and performance; and b) Contractor shall be responsible for furnishing an annual report to each designated point of contact summarizing overall Enterprise License activity for the preceding twelve months.

**(d) Shipping / Delivery** Contractor shall be responsible for delivery of Master Copies of Enterprise Licensed Product and documentation to Enterprise Participants. Within either "Single" or "Multiple" Enterprise Licenses, shipping and delivery of Master Copies of Product and Documentation shall be the responsibility of Contractor to each "ship to" location specified on the Purchase Order(s). Distribution and installation of Enterprise Licensed Product to End Users at a site shall be the responsibility of the Licensee.

**(e) Enterprise Operating Systems** Unless otherwise specified by the parties, up to ten (10) hardware/operating system combinations for Product shall be included at no additional charge. The initial ten hardware/operating systems may be specified at any time within five (5) years of the Enterprise License effective date. Additional hardware/operating systems beyond the initial ten (10) may be specified at anytime by the Enterprise, however if additional copies of Product are required for hardware/operating systems beyond the initial ten, the cost for such systems will be as mutually agreed between the parties.

**(f) Product Acceptance** Each Enterprise Participant shall have a right of acceptance, as set forth above in this Part II, only for the first copy of Product for its site(s).

**(g) Enterprise Fees** Enterprise License Fees shall be set forth in the Contract. Notwithstanding the foregoing, the Product license fees for additional copies or units of capacity for Enterprise licensed Product shall not increase by more than six percent (6%) annually each year during the Enterprise License term. Contractor may offer additional discounts/incentives for Enterprise Participants as may be mutually agreed between the parties. Enterprise Participants shall be entitled to aggregate the volume of all Enterprise Participants for purposes of establishing any applicable discounts under the Contract, and Enterprise Licensed Volume shall be aggregated with volume of non-Enterprise Licensed Product otherwise purchased under the centralized Contract. Upon termination of the Enterprise, Enterprise Participants have the right to acquire additional capacity or users at the Enterprise License price for twelve months after the termination of the Enterprise License.

**(h) Technical Support** Unless otherwise mutually agreed, technical support is optional and may be elected individually by Product by each Enterprise Participant. Where an Enterprise Participant is under a current maintenance or technical support contract, such Enterprise Participant shall be entitled to credit any support paid covering any portion of the Enterprise License Term to the fees due under the Enterprise license.

Enterprise Participants shall have the right to partially or wholly de-support a subset of unused Enterprise licensed capacity upon written notice to Contractor at the end of any then -

current technical support term without penalty or charge. The capacity for a Program license which has been de-supported must remain inactive and may not be used within the Enterprise unless technical support for such capacity has been reinstated. In the event of de-support, Contractor reserves the right to reasonably determine compatibility of future releases or new programs prior to shipment.

**(i) Merger of Two or More Enterprises** Two or more Enterprises may be merged to form a larger Enterprise for the purpose of sharing and exchanging data at no additional license fee provided that participants give Contractor notice of such merger and that the combined capacity does not exceed the maximum capacity of the individual licenses.

**(j) "Nested" Enterprises** Individual Enterprise License participant(s) may license additional capacity or products for the specific use of a subset of the larger enterprise. Said participant(s) must certify in writing to Contractor that such use is only by the enumerated subset of participants.

**(k) Default** A default by any Enterprise Participant shall entitle the Contractor to the remedies against such participant under the Contract, but shall not be deemed a default by the remaining non-defaulting Enterprise Participants.

**76. PRODUCT ACCEPTANCE** Unless otherwise provided in the Bid Specifications, the County and/or Authorized User(s) shall have sixty (60) days from delivery to accept Product. Failure to provide notice of acceptance or rejection by the end of the period provided for under this clause would constitute acceptance by the County or Authorized User(s) as of the expiration of that period.

Unless otherwise provided in the Bid Specifications, The County or Authorized User shall have the option to run acceptance testing on the Product prior to acceptance, such tests and data sets to be specified by User. Where using its own data or tests, The County or Authorized User must have the tests or representative set of data available upon delivery. This demonstration will take the form of a documented installation test, capable of observation by the County or Authorized User, and shall be made part of the Contractors standard documentation. The test data shall remain accessible to the County or Authorized User after completion of the test.

In the event that the documented installation test cannot be completed successfully within sixty (60) days from delivery, and the Contractor or Product is responsible for the delay, The County or Authorized User shall have the option to cancel the order in whole or in part, or to extend the testing period for another sixty (60) day increment. The County or Authorized User shall notify Contractor of acceptance upon successful completion of the documented installation test. Such cancellation shall not give rise to any cause of action against the County or Authorized User for damages, loss of profits, expenses, or other remuneration of any kind.

Costs and liabilities associated with a failure of the Product to perform in accordance with the functionality tests or product specifications during the acceptance period shall be borne fully by Contractor to the extent that said costs or liabilities shall not have been caused by negligent or willful acts or omissions of the The County or Authorized Users agents or employees. Said costs shall be limited to fees paid to Contractor, if any, or any liability for costs incurred at the direction or recommendation of Contractor.

**77. AUDIT OF LICENSED PRODUCT USAGE** Contractor shall have the right to periodically audit, at its expense, use of licensed Product at any site where a copy of the Product resides provided that: i) Contractor gives Licensee or Enterprise Participants at least thirty (30) days advance notice, ii) such audit is conducted during such party's normal business hours iii) each Licensee or Enterprise Participant is entitled to designate a representative who shall be entitled to participant and simultaneously review all information obtained by the audit, and shall be entitled to copies of all reports, data or information obtained by the Contractor; and iv) if the audit shows that such party is not in

compliance such party shall be liable for the unlicensed capacity and shall be required to purchase the additional units or rights necessary to bring it into compliance.

**78. OWNERSHIP / TITLE TO CUSTOM PRODUCTS OR PROGRAMMING** Where contract deliverables include custom products or programming, title, rights and interests to such Product(s) shall be determined as follows:

**(a) Definitions**

**Product** For purposes of this section, the term “Product” shall have the meaning set forth in Part I of these *General Specifications*, which includes, but is not limited to: software applications or programming, programming tools, documentation (including user or training manuals), modules, interfaces, templates, and other elements such as utilities, subroutines, algorithms, formulas, source code, object code, reports, drawings, or data.

**“Existing Product”** is defined as any proprietary material(s) existing or developed independently and not at the expense of Licensee.

**“Custom Product”** is defined as any material(s), exclusive of Existing Product, created, prepared, written, compiled or developed by Contractor, or anyone acting on his behalf for The County or Authorized User pursuant to the Contract.

**(b) Contractor or Third Party Manufacturers Title to Existing Product** Title to Existing Product(s) does not transfer. With respect to such Existing Product(s), whether embedded in or operating in conjunction with Custom Product, Contractor warrants: a) all right, title and interest in Contractor's Existing Product(s); or b) all license rights, title and interest in third party Existing Product(s), which include the right to grant to The County or Authorized User an irrevocable, non-exclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, and distribute Existing Product(s). Contractor hereby grants a irrevocable, non-exclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, and distribute Existing Product(s) embedded in or transferred for use in conjunction with Custom Product(s). The Licensee agrees to reproduce the copyright notice and any other legend of ownership on any copies made under the license granted under this paragraph prior to distribution or use.

**(c) Title to Custom Product** Title to Custom Product(s), excluding Existing Product, shall be deemed the sole and exclusive property of the County or Authorized User, who shall have all right, title and interest (including ownership and copyrights). For the purposes of the federal copyright law, execution of this contract shall constitute an assignment of all right, title and interest in the Custom Product(s) by Contractor to the County or Authorized User. The County or Authorized User, in its sole discretion, reserves the right to sell Custom Product or to license them on an exclusive or non-exclusive basis to Contractor or other Third Parties. Contractor hereby agrees to take all necessary and appropriate steps to ensure that Custom Product is protected against unauthorized use, execution, reproduction, display, performance, or distribution by or through Contractor, its partners or agents. Notwithstanding this reservation of title, Contractor shall not be precluded from using the related or underlying general knowledge, skills and experience developed in the course of providing the Custom Product in the course of Contractor's business.

**(d) Acquisitions Funded By Tax Exempt Financing** In addition to the foregoing rights under a, b and c, the sale or licensing of Custom Product or rights therein shall not occur until such Product or rights are or become useable, and shall be at fair market value which shall be determined at the time of sale or licensing. Any such transfer shall be pursuant to a separate written agreement. If the Contract deliverables are to be funded through tax exempt financing, the County or Authorized User may assign to a Trustee or other entity for security purposes County or Authorized Users ownership and license rights in Custom and Existing Products. Contractor will cooperate with the County or Authorized User to execute such other documents as may be appropriate to achieve the objectives of

this paragraph.

**(e) Other Acquisitions (Not Funded by Tax Exempt Financing)** In addition to the rights set forth above (paragraphs “a”, “b” and “c”), the County or Authorized User reserves the right to transfer any or all rights to Custom Materials on an exclusive or non-exclusive basis. Where such transfer (sale or licensing) is provided in the Bid Specifications, Contractor shall include a purchase price for such rights in its bid. Such price shall be offered as a deduction from Contractor’s overall Bid or Project Bid price, and shall be weighted as set forth in the bid evaluation criteria, if any. Such rights shall transfer to the successful Bidder/Contractor upon successful completion and acceptance by the County or Authorized User of all contract deliverables. Contractor will cooperate with the County or Authorized User to execute such other documents as may be appropriate to achieve the objectives of this paragraph.

**79. PROOF OF LICENSE** The Contractor must provide to each Licensee who places a Product order either: a) the Product manufacturer’s certified License Confirmation Certificates in the name of each such Licensee; or b) a written confirmation from the Product manufacturer accepting Contractors Product invoice as proof of license. Bidder or Contractor shall submit a sample manufacturers certificate, or alternatively such written confirmation from the manufacturer, with the Bid or Contract. Such certificates must be in a form acceptable to the Licensee.

**80. PRODUCT VERSION** Product orders shall be deemed to reference Manufacturers most recently released model or version of the Product at time of delivery, unless an earlier model or version is specifically requested in writing by the County or Authorized User and Contractor is willing to provide such version.

**81. MIGRATION TO CENTRALIZED CONTRACT** The County or Authorized User may obtain additional Product authorized under this contract, (e.g., licensed capacity upgrades, new releases, documentation, maintenance, consulting or training) whether or not Product was initially obtained independently of this contract. The County or Authorized Users election to obtain additional Product shall not operate to diminish, alter or extinguish rights previously granted.

**82. NOTICE OF PRODUCT DISCONTINUANCE** In the event that a Product manufacturer proposes to discontinue maintenance or support for Product, Contractor shall (1) notify the County and each Authorized User in writing of the intended discontinuance, and (2) continue to provide maintenance and support for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than eighteen (18) months from the date of notice, and (3) at The County or Authorized Users option, either a) provided that the County or Authorized User is under maintenance, provide the County or Authorized User with either a Product replacement with equivalent functionality at no additional charge, or b) provide County or Authorized User with the source code for Licensed Product at no additional charge to enable it to continue use and maintenance of the Product.

**83. REINSTATEMENT OF MAINTENANCE** The County or Authorized User shall not be required to purchase maintenance for use of Product, and may discontinue maintenance at the end of any current maintenance term upon written notice to Contractor. In the event that The County or Authorized User discontinues maintenance of licensed Product, it may, at any time thereafter, reinstate maintenance for Product without any additional penalties or other charges, by paying Contractor at rates which would have been due under the contract for the period of time that such maintenance had lapsed, or for twelve months, whichever is less.

**84. NO HARDSTOP / PASSIVE LICENSE MONITORING** Contractor hereby represents, warrants and covenants that the Product and all Upgrades do not and will not contain any computer code that would disable the Product or Upgrades or impair in any way its operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as “time bombs”, “time locks”, or “drop dead” devices) or that would permit Contractor to access the Product to cause such disablement or

impairment (sometimes referred to as a “trap door” device). Contractor agrees that in the event of a breach or alleged breach of this provision that The County or Authorized User shall not have an adequate remedy at law, including monetary damages, and that The County or Authorized User shall consequently be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which The County or Authorized User shall be entitled.

**85. ADDITIONAL WARRANTIES / GUARANTEES** Where Contractor or Product manufacturer offers additional or more advantageous warranties than set forth herein, Contractor shall offer or pass through any additional or more advantageous warranties to The County or Authorized Users. In addition to the ‘Warranties/Guarantees’ set forth in Part I, Contractor makes the following warranties.

**(a) Product Performance Warranty** Contractor represents and warrants that the Products delivered pursuant to this contract conform to the manufacturers specifications, performance standards, and documentation and that the documentation fully describes the proper procedure for using the Products in an efficient manner. Contractor does not warrant that software is error-free.

In the event that Contractor does not remedy a substantial breach of this warranty within the cure period, Licensee shall also have the right to terminate any payments due Contractor, with a refund of the any fees prospectively paid from the date of breach.

**(b) Year 2000 Warranty** For all procurements of Product, Contractor must furnish a warranty statement in accordance with the NYS Standard Year 2000 Warranty Compliance Statement set forth in Part I at the time of bid for agency specific contracts or product order for centralized contracts.

**(c) Virus Warranty** Contractor represents and warrants that Licensed Software contains no known viruses. Bidder is not responsible for viruses introduced at Licensees site. For purposes of this provision, “Virus” shall have the meaning set forth in Part II, “Definitions”.

A breach of any of the foregoing shall be deemed a material breach of the Contract or any License granted thereunder. The defaulting party shall be given written notice of a warranty breach under this section and shall have a thirty (30) day period to cure such breach.

**86. INDEMINIFICATION THE WARRANTIES SET FORTH IN THESE *GENERAL SPECIFICATIONS* (PARTS I and II) ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

Contractor shall defend, indemnify and save harmless the County and Authorized Users from suits, actions, claims, damages and costs arising under or connected to Contractors actions, and except where express loss liabilities set forth elsewhere in the Contract provide for a higher loss limitation liability than as set forth in this paragraph, or where such express provisions impose Contractor liability on “without limitation”, the total liability of Contractor for such claim(s), regardless of the nature and basis for the claim, shall not exceed two (2) times the fees paid for the applicable Product. For any suit, action, claim, damages or costs arising under or are connected to personal injury or property damage, or breach of the title, patent and copyright warranties, Contractor shall be fully liable without limitation.

The County or Authorized User may retain such moneys from the amount due Contractor as may be necessary to satisfy any claim for damages, costs and the like asserted by or against the County or Authorized User, provided however, that Contractor shall not indemnify each such entity to the extent that any claim, loss or damages arising hereunder is caused by the negligence act or failure to act of said entity.



**87. SOURCE CODE ESCROW FOR LICENSED PRODUCTS** If source code or source code escrow is offered by either Contractor or Product manufacturer/developer to any other commercial customers, Contractor either: i) will provide Licensee with the Source Code for the Product; or ii) place the Source Code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the County, and who shall be directed to release the deposited Source Code in accordance with a standard escrow agreement acceptable to the County, or iii) will certify to the County that the Product manufacturer/developer has named the County, and the Licensee, as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the County and Licensee, and who shall be directed to release the deposited Source Code in accordance with the terms of escrow. Source Code, as well as any corrections or enhancements to such source code, shall be updated for each new release of the Product in the same manner as provided above. Contractor shall identify the escrow agent upon commencement of the contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this paragraph.

The County may release the Source Code to Licensees under this Contract who have licensed Product or obtained services, who may use such copy of the Source Code to maintain the Product.

ESSEX COUNTY PURCHASING  
7551 COURT STREET – PO BOX 217  
ELIZABETHTOWN, NY 12932

**NON-BIDDER RESPONSE**

**Bid/RFP Name:** \_\_\_\_\_

The Essex County Purchasing Department is interested in the reasons why bidders fail to submit bids. Please indicate your reason(s) by checking all appropriate item(s) below and returning this form to the above address.

- ☐ Could not meet specifications or Scope of Services.
- ☐ Items or materials requested not manufactured by us or not available to our company.
- ☐ Insurance Requirements are too restricting.
- ☐ Bond requirements are too restricting.
- ☐ Specifications or Scope of Services not clearly understood or applicable (too vague, too rigid, etc.)
- ☐ Project not suited to firm,
- ☐ Quantities too small.
- ☐ Insufficient time allowed for preparation of bid.
- ☐ Other reasons; please state and define:

---

---

---

---

Vendor Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Vendor Address: \_\_\_\_\_

Vendor Telephone: \_\_\_\_\_

# Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification; check only <b>one</b> of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <b>Note.</b> For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
7 List account number(s) here (optional)		

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number								
				-				
or								
Employer identification number								
				-				

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶	Date ▶

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

## What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note. ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

**Line 2**

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

**Line 3**

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

**Limited Liability Company (LLC).** If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

**Line 4, Exemptions**

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

**Exempt payee code.**

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note.** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

**Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

**Line 6**

Enter your city, state, and ZIP code.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>1</sup>  The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

\*Note. Grantor also must provide a Form W-9 to trustee of trust.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

## PROPOSAL DOCUMENTS

### DESCRIPTION

Vendor Responsibility Questionnaire	[Have Notarized]
Certification of Compliance With Iran Divestment Act	[Have Notarized]
Non-Collusive Bidding Certification	[Have Notarized]

## ESSEX COUNTY VENDOR RESPONSIBILITY QUESTIONNAIRE

1. VENDOR IS:  _____PRIME CONTRACTOR			
2. VENDOR'S LEGAL BUSINESS NAME		3. IDENTIFICATION NUMBERS  A) FEIN #  B) DUNS #	
4. D/B/A – Doing Business As (if applicable) & COUNTY FIELD		5. WEBSITE ADDRESS (if applicable)	
6. ADDRESS OF PRIMARY PLACE OF BUSINESS/EXECUTIVE OFFICE		7. TELEPHONE NUMBER	8. FAX NUMBER
9. ADDRESS OF PRIMARY PLACE OF BUSINESS/EXECUTIVE OFFICE <i>IN NEW YORK STATE, if different from above</i>		10. TELEPHONE NUMBER	11. FAX NUMBER
12. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE  Name  Title  Telephone Number  Fax Number  Email			
13. LIST ALL OF THE VENDOR'S PRINCIPAL OWNERS			
A) NAME	TITLE	B) NAME	TITLE
C) NAME	TITLE	D) NAME	TITLE
A DETAILED EXPLANATION IS REQUIRED FOR EACH QUESTION ANSWERED WITH A "YES," AND MUST BE PROVIDED AS AN ATTACHMENT TO THE COMPLETED QUESTIONNAIRE. YOU MUST PROVIDE ADEQUATE DETAILS OR DOCUMENTS TO AID THE COUNTY IN MAKE A DETERMINATION OF VENDOR RESPONSIBILITY. PLEASE NUMBER EACH RESPONSE TO MATCH THE QUESTION NUMBER.			
14. DOES THE VENDOR USE, OR HAS IT USED IN THE PAST FIVE (5) YEARS, ANY OTHER BUSINESS NAME, FEIN, or D/B/A OTHER THAN THOSE LISTED IN ITEMS 2-4 ABOVE? List all other business name(s), _____ YES _____ NO Federal Employer Identification Number(s) or any D/B/A names and the dates that these names or numbers were/are in use. Explain the relationship to the vendor			
15. ARE THERE ANY INDIVIDUALS NOW SERVING IN A MANAGERIAL OR CONSULTING CAPACITY TO THE VENDOR, INCLUDING PRINCIPAL OWNERS AND OFFICERS, WHO NOW SERVE OR IN THE PAST ONE (1) YEARS HAVE SERVED AS:  a) An elected or appointed public official or officer? <i>List each individual's name, business title, the name of the organization and position elected or appointed to, and dates of service</i> _____ YES _____ NO  b) An officer of any political party organization in Essex County, whether paid or unpaid? <i>List each individuals name, business title or consulting capacity and the official political position held with applicable service dates.</i> _____ YES _____ NO			



16. WITHIN THE PAST (5) YEARS, HAS THE VENDOR, ANY INDIVIDUALS SERVING IN MANAGERIAL OR CONSULTING CAPACITY, PRINCIPAL, OWNERS, OFFICERS, MAJOR STOCKHOLDER(S) (10% OR MORE OF THE VOTING SHARES FOR PUBLICLY TRADED COMPANIES, 25% OR MORE OF THE SHARES FOR ALL OTHER COMPANIES), AFFILIATE OR ANY PERSON INVOLVED IN THE BIDDING OR CONTRACTING PROCESS:

- a) 1. been suspended, debarred or terminated by a local, state or federal authority in connection with a contract or contracting process; \_\_\_\_\_ YES \_\_\_\_\_ NO
2. been disqualified for cause as a bidder on any permit, license, concession, franchise or lease;
3. entered into an agreement to a voluntary exclusion from bidding/contracting;
4. had a bid rejected on an Essex County contract for failure to comply with the MacBride Fair Employment Principles;
5. had a low bid rejected on a local, state or federal contract for failure to meet statutory affirmative action or M/WBE requirements on a previously held contract;
6. had a status as a Women's Business Enterprise, Minority Business Enterprise or Disadvantaged Business Enterprise, de-certified, revoked or forfeited;
7. been subject to an administrative proceeding or civil action seeking specific performance or restitution in connection with any local, state or federal government contract;
8. been denied an award of a local, state or federal government contract, had a contract suspended or had a contract terminated for non-responsibility; or
9. had a local, state or federal government contract suspended or terminated for cause prior to the completion of the term of the contract.
- b) been indicted, convicted, received a judgment against them or a grant of immunity for any business-related conduct constituting a crime under local, state or federal law including but not limited to, fraud, extortion, bribery, racketeering, price-fixing, bid collusion or any crime related to truthfulness and/or business conduct? \_\_\_\_\_ YES \_\_\_\_\_ NO
- c) been issued a citation, notice, violation order, or are pending an administrative hearing or proceeding or determination of violations of: \_\_\_\_\_ YES \_\_\_\_\_ NO
1. federal, state or local health laws, rules or regulations

17. IN THE PAST THREE (3) YEARS, HAS THE VENDOR OR ITS AFFILIATES' HAD ANY CLAIMS, JUDGMENTS, INJUNCTIONS, LIENS, FINES OR PENALTIES SECURED BY ANY GOVERNMENTAL AGENCY?

\_\_\_\_\_ YES \_\_\_\_\_ NO

Indicate if this is applicable to the submitting vendor or affiliate. State whether the situation(s) was a claim, judgment, injunction, lien or other with an explanation. Provide the name(s) and address(es) of the agency, the amount of the original obligation and outstanding balance. If any of these items are open, unsatisfied, indicate the status of each items as "open" or "unsatisfied".

18. DURING THE PAST THREE (3) YEARS, HAS THE VENDOR FAILED TO:

- a) file returns or pay any applicable federal, state or city taxes?  
*Identify the taxing jurisdiction, type of tax, liability year(s), and tax liability amount the vendor failed to file/pay and the current status of the liability.* \_\_\_\_\_ YES \_\_\_\_\_ NO
- b) file returns or pay New York State unemployment insurance?  
*Indicate the years the vendor failed to file/pay the insurance and the current status of the liability.* \_\_\_\_\_ YES \_\_\_\_\_ NO
- c) Property Tax  
*Indicate the years the vendor failed to file.* \_\_\_\_\_ YES \_\_\_\_\_ NO

19. HAVE ANY BANKRUPTCY PROCEEDINGS BEEN INITIATED BY OR AGAINST THE VENDOR OR ITS AFFILIATES' WITHIN THE PAST SEVEN (7) YEARS (WHETHER OR NOT CLOSED) OR IS ANY BANKRUPTCY PROCEEDING PENDING BY OR AGAINST THE VENDOR OR ITS AFFILIATES REGARDLESS OF THE DATE OF FILING?

\_\_\_\_\_ YES \_\_\_\_\_ NO

Indicate if this is applicable to the submitting vendor or affiliate. If it is an affiliate, include the affiliate's name and FEIN. Provide the court name, address and docket number. Indicate if the proceedings have been initiated, remain pending or have been closed. If closed, provide the date closed.

20. IS THE VENDOR CURRENTLY INSOLVENT, OR DOES VENDOR CURRENTLY HAVE REASON TO BELIEVE THAT AN INVOLUNTARY BANKRUPTCY PROCEEDING MAY BE BROUGHT AGAINST IT?

Provide financial information to support the vendor's current position, for example, Current Ratio, Debt Ratio, Age of Accounts Payable, Cash Flow and any documents that will provide the agency with an understanding of the vendor's situation.

\_\_\_ YES \_\_\_ NO

21. IN THE PAST FIVE (5) YEARS, HAS THE VENDOR OR ANY AFFILIATES:

- a) defaulted or been terminated on, or had its surety called upon to complete, any contract (public or private) awarded;

\_\_\_ YES \_\_\_ NO

Indicate if this is applicable to the submitting vendor or affiliate. Detail the situation(s) that gave rise to the negative action, any corrective action taken by the vendor and the name of the contracting agency.

<sup>1</sup> "Affiliate" meaning: (a) any entity in which the vendor owns more than 50% of the voting stock; (b) any individual, entity or group of principal owners or officers who own more than 50% of the voting stock of the vendor; or (c) any entity whose voting stock is more than 50% owned by the same individual, entity or group described in clause (b). In addition, if a vendor owns less than 50% of the voting stock of another entity, but directs or has the right to direct such entity's daily operations, that entity will be an "affiliate" for purposes of this questionnaire.

**ESSEX COUNTY  
VENDOR RESPONSIBILITY QUESTIONNAIRE**

FEIN # \_\_\_\_\_

State of:                                 )  
  ) ss:  
County of:                                 )

**CERTIFICATION:**

The undersigned: recognizes that this questionnaire is submitted for the express purpose of assisting the County of Essex in making a determination regarding an award of contract or approval of a subcontract; acknowledges that the County may in its discretion, by means which it may choose, verify the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45, and may also be punishable by a fine and/or imprisonment of up to five years under 18 USC Section 1001 and may result in contract termination; and states that the information submitted in this questionnaire and any attached pages is true, accurate and complete.

The undersigned certifies that he/she:

- Has not altered the content of the questions in the questionnaire in any manner;
- Has read and understands all of the items contained in the questionnaire and any pages attached by the submitting vendor;
- Has supplied full and complete responses to each item therein to the best of his/her knowledge, information and belief;
- Is knowledgeable about the submitting vendor's business and operations;
- Understands that Essex County will rely on the information supplied in the questionnaire when entering into a contract with the vendor;
- Is under duty to notify the Essex County Purchasing Officer of any changes to the vendor's responses.

Name of Business: \_\_\_\_\_

Signature of Owner: \_\_\_\_\_

Printed Name of Signatory: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

Date: \_\_\_\_\_

Sworn before me this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

**CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT**

As a result of the Iran Divestment Act of 2012 (the "Act"), Chapter 1 of the 2012 Laws of New York, a new provision has been added to State Finance Law (SFL) § 165-a and New York General Municipal Law § 103-g, both effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law) (the "Prohibited Entities List"). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date at which time it will be posted on the OGS website.

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the OGS website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to SFL § 165-a(3)(b).

Additionally, Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS Website, any Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the County shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a contract and subsequently appears on the Prohibited Entities List.

I, \_\_\_\_\_, being duly sworn, deposes and says that he/she is the \_\_\_\_\_ of the \_\_\_\_\_ Corporation and that neither the Bidder/Contractor nor any proposed subcontractor is identified on the Prohibited Entities List.

\_\_\_\_\_  
SIGNED

SWORN to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

## **NON-COLLUSIVE BIDDING CERTIFICATION**

1. By submission of this bid, the undersigned bidder and each person signing on behalf of such bidder certifies and in the case of a joint bid each party thereto certifies as to its own organization — UNDER PENALTY OF PERJURY, that to the best of the undersigned's knowledge and belief:

(a) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

(b) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

(c) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

2. The undersigned acknowledges and agrees that a bid shall not be considered for award nor shall any award be made where any of the above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where one or more of the above has/have not been complied with, the bid shall not be considered for award nor shall any award be made unless the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

3. The undersigned also acknowledges and agrees that the fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of paragraph 1 above.

4. The undersigned further acknowledges and agrees that any bid hereafter made to any political subdivision of the state or any public department, agency or official thereof by a bidder which is a corporation or a limited liability company for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in paragraph 1 of this certificate, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation or limited liability company.

Name of Bidder: \_\_\_\_\_  
(print full legal name)

Date Signed: \_\_\_\_\_ Signature: \_\_\_\_\_

Name of Person Signing Certificate: \_\_\_\_\_  
(print full legal name of signer)

Bidder is (check one): ☐ an individual, ☐ a limited liability partnership, ☐ a limited liability company,  
☐ other entity (specify): \_\_\_\_\_

CONTRACTOR'S ACKNOWLEDGEMENT

(If Corporation)

STATE OF NEW YORK) SS:  
COUNTY OF ESSEX)

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me personally came \_\_\_\_\_  
\_\_\_\_\_ to me known, and known to me to be the \_\_\_\_\_  
of the Corporation described in and which executed the within instrument, who being duly sworn did depose  
and say that he, the said \_\_\_\_\_ reside at \_\_\_\_\_ and  
that he is \_\_\_\_\_ of said corporation and knows the corporate seal of the said  
corporation; that the seal affixed to the within instrument is such corporate seal and that it was so affixed by  
order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

\_\_\_\_\_  
Notary Public

CONTRACTOR'S ACKNOWLEDGEMENT

(If Individual)

STATE OF NEW YORK) SS:  
COUNTY OF ESSEX)

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me personally came  
\_\_\_\_\_ to me known, and known to me to be the same  
person described in and who executed the within instrument and he duly acknowledged to me that he executed  
the same for the purpose herein mentioned and, if operating under and trade name, that the certificate required  
by the New York State Penal Law, Sections 440 and 440-b has been filed with the County Clerk of Essex  
County.

\_\_\_\_\_  
Notary Public

CONTRACTOR'S ACKNOWLEDGEMENT

(If Co-Partnership)

STATE OF NEW YORK) SS:  
COUNTY OF ESSEX)

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me personally came  
\_\_\_\_\_ to me known, and known to me to be a member of the firm of and  
the person described in, and who executed the within instrument in behalf of said firm for the purposes herein  
mentioned and that the certificate required by the New York State Penal Law, Sections 440 and 440-b has been  
filed with the County Clerk of Essex County.

\_\_\_\_\_  
Notary Public