



# COUNTY OF ERIE

WILLIAM E. GEARY, JR.

COMMISSIONER

## DEPARTMENT OF PUBLIC WORKS

### ADDENDUM No. 2

Project No. FA- 5763.42-23

**2023 BRIDGE DECK OVERLAYS AND JOINT REPAIRS (5 BRIDGES)**

March 27, 2023

Please sign and e-mail the attached confirmation sheet as soon as possible and also include the signed addendum within the bid package that you submit with your bid. **Failure to submit signed confirmation may disqualify the bidder.**

### CONTRACT PROPOSAL PAGES:

**1. Contract Proposal, Pg. TABLE OF CONTENTS**

Replace the original TABLE OF CONTENTS page with the attached TABLE OF CONTENTS.

**2. Contract Proposal, Pg. SI 6**

Revise Page number references in Item 13) to: "...found on pages SI 18 through SI 26"

**3. Contract Proposal, Pg. SI 7B**

Replace the original SI 7B page with the attached new page SI 7B-A2.

Note: revisions were made to Schedule & Sequence Notes 1 and 3.

**4. Contract Proposal, Pages. SI 10 through SI 27**

Replace the original SI 10 through SI 27 pages with the attached pages: SI 9-A2 through SI 26-A2.

Please note that no changes other than correction of sheet numbering were made.

### GENERAL CLARIFICATIONS:

**5. On Drawing GN-1 (Sheet 3)**

Under STRIPING NOTE, Note 1.,

Delete the note:

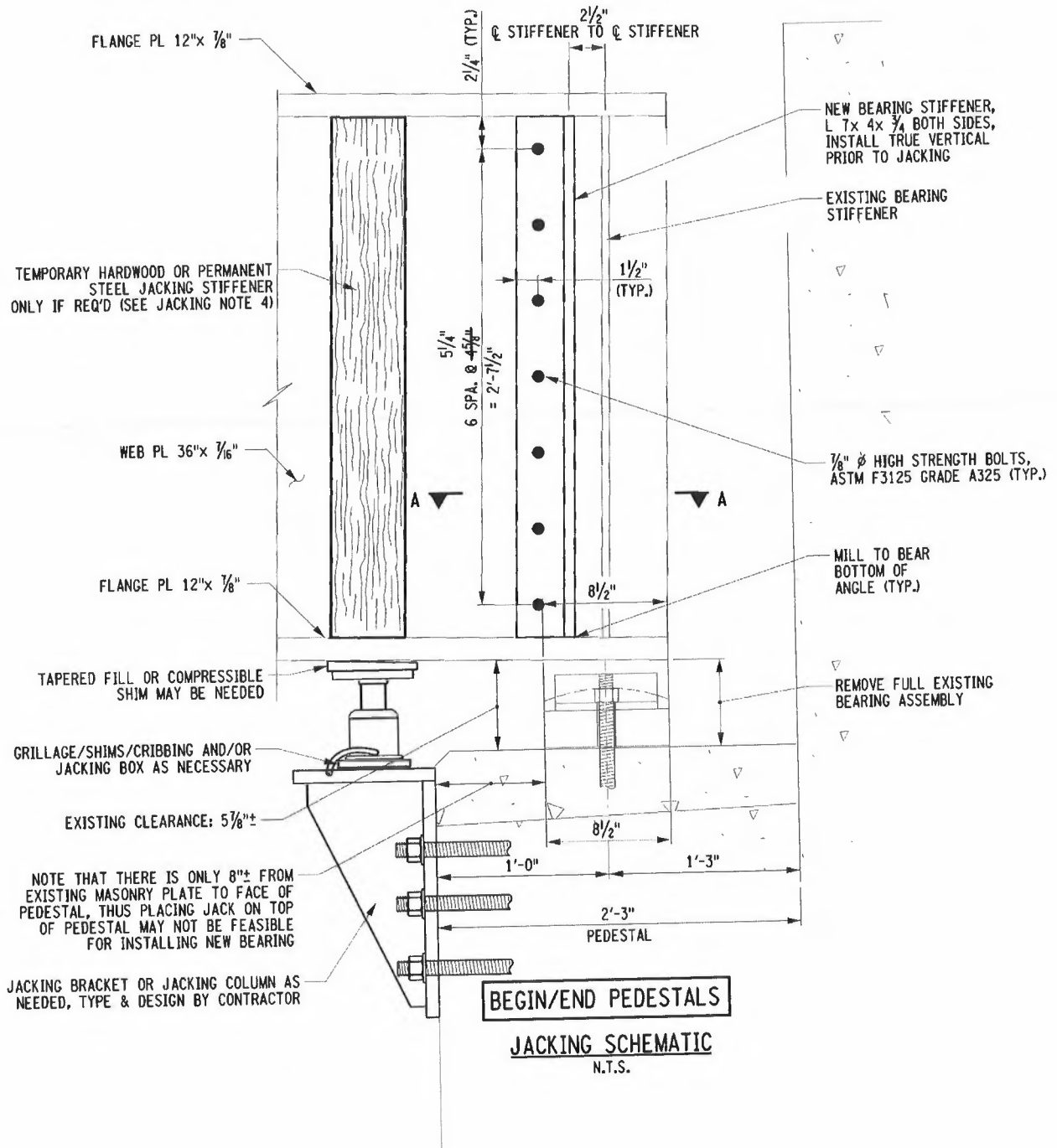
"NO STRIPING IS REQUIRED AT YOUNGS ROAD AND NO STRIPING IS REQUIRED ON BLEY ROAD. STRIPING SHALL BE PERFORMED AT NORTH ROAD, HUNTERS CREEK ROAD AND MAPLE STREET SITES PRIOR TO CONTRACT COMPETITION DATE."

Replace with

"STRIPING SHALL BE PERFORMED AT ALL BRIDGE SITES PRIOR TO CONTRACT COMPETITION DATE."

**6. On Drawing HCR-3 (Sheets 33A1)**

Revise the bolt spacing for the new bearing stiffener shown in the JACKING SCHEMATIC detail as shown below (Change 6 SPA. @ 4 5/8" TO: 6 SPA. @ 5 1/4")



**7. Clarification to Painting Specifications:**

**Drawing YR-9 (Sheet 20)**  
**Drawing BR-7 (Sheet 30)**  
**Drawing HCR-6 (Sheet 36)**

Replace Note 2 with the following (changes in bold):

“ALL PAINTING AND SURFACE PREPARATION OF EXISTING STEEL TO CONFORM TO NYSDOT STANDARD SPECIFICATIONS SECTION **708-02**. ALL STEEL TO BE PAINTED SHALL BE PREPARED MEETING **SSPC-SP-11** REQUIREMENTS.”

**8. Drawing MAP-2 (Sheet 38)**

- A. Clarification to Note 1: Drilling & Grouting of new reinforcement L-Bar dowels shall be paid for under Item 586.0201. Item 582.07 is intended to be placed at a depth of 7 ½” as shown in Section B-B of Drawing MAP-3.

THERE ARE NO CHANGES TO THE BID OPENING TIME OR DATE.

END OF ADDENDUM

ANY BID PROPOSAL RECEIVED WITHOUT THE ABOVE ADDENDUM CHANGES SHALL BE AMENDED BY THE COMMISSIONER TO REFLECT SAID CHANGES.

BY:



Darlene Svilkos, P.E.  
Director of Engineering  
Erie County Department of Public Works

To: All Bidders

From: Erie County Department of Public Works

Date: March 27, 2023

Subject: Addendum No. 2  
2023 Bridge Deck Overlays and Joint Repairs (5 Bridges)  
Project No: FA-5763.42-23

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Please sign and email back this confirmation sheet once you have reviewed this.

This is to advise that the company listed below is in receipt of **Addendum No. 2** for this project.

Name of Company: \_\_\_\_\_

Signature: \_\_\_\_\_

Please email to: [Jonathan.DePlanche@erie.gov](mailto:Jonathan.DePlanche@erie.gov)

Enclosure:

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### **General Right-of-Way Note:**

1. All work to be performed under this contract will be within the public right-of-way (ROW) in accordance with Section 105-15 of the Standard Specifications. The Contractor is to assure himself that all work is being performed within the ROW, including but not limited to vehicle access; storage of equipment, materials, debris and waste; landscaping; vegetation removal and management; grading, seeding and the installation of turf; and the installation of any fences.
2. If Contractor is unable to identify the limits of the Rights-of-Way when the contract calls for work in those vicinities, the Contractor must contact the Engineer in Charge for definitive boundary determinations before any work may be initiated at those locations (Standard Specifications Sections 105-10 and 625).
3. In accordance with Section 105-15 of the Standard Specifications, releases for any non-essential contract work outside of the existing Rights-of-Way, including plantings, landscaping or driveway enhancement, will be provided by the Project Engineer and in no instance are to be secured by the Contractor. The Contractor shall not invade upon private properties, lands or buildings outside of the Rights-of-Way for any reason without first securing written permission from the property owner (Standard Specifications Section 105-15).
4. The Contractor will be held liable for any damages done. Any such injuries or damages shall be satisfactorily repairs or items replaced at the Contractor's expense (Standard Specifications Section 107-08).

### **Schedule & Sequence Notes:**

1. Due to a separate adjacent NFTA tunnel project on Aero Drive, The Youngs Road bridge work shall be completed after NFTA's project. The Contractor shall coordinate schedule with that project. Below deck work which does not require lane or full closure, may be permitted if approved in advance by the Engineer. The Contractor shall provide a schedule to the County for their information and to the Engineer for approvals once coordination of the NFTA's project completed. There are no other schedule constraints for any remaining particular bridge. There are no restrictions pertaining to not closing certain roads during school season.
2. Except as noted above in Schedule and Sequence Note 1, and besides the following road closure restrictions & limitations on road closure durations, there are no other requirements as to the sequence that the bridges be repaired, nor any restrictions on the duration for which they are worked on as long as they are not being closed, and as long as all work is completed by the contract completion date of [December 1, 2023](#).
3. The contractor may not close more than 2 of the 5 bridges at one time. Once a bridge is closed, the contractor must progress the work in a continuous systematic and efficient manner [ie; Contractor may not close the road, and leave it closed with no work progressing for more than a week].

Additionally, the schedule shall state the manpower to be used for each operation. This shall include the number of men required for each operation for each day (maximum, minimum, and average manpower per day). Also, a short description of the tasks involved in each operation is required, i.e. under Clearing and Grubbing, define what section of project is to be worked on (North side of road between Sta. \_\_ to Sta. \_\_).

For sample schedule and description of tasks see pages SI-16 and SI-17.

The purpose of this schedule is to provide assurance that this project will be completed on time and it shall not be deemed to shift responsibility for the performance of the Contract from the Contractor to the County.

- c. The construction schedule, along with the list of operations, shall be attached to the inside of the back cover of the proposal.
  - d. The Commissioner reserves the right to waive all informalities.
4. The Contractor shall not disturb the existing pavement in a manner that will interfere with snow removal or vehicular movement during the winter months. It is, therefore, entirely the Contractor's liability to maintain a smooth riding pavement should he elect to construct the necessary cross culverts and/or the foundation course.
  5. Remove, store and protect from loss or harm the Owner's chattels, viz., road signs, directional signs, posts, rails, barricades, pipes, etc., and replace in accordance with Item 619.01.
  6. The Contractor's attention is directed to Section 107-01 of the New York State Department of Transportation Standard Specifications requiring procurement of all necessary licenses and permits not at the Owner's expense; further it requires the Contractor to observe all federal, state and local laws and regulations which may affect the Contractor's operations on this project. This information is provided as a convenience to bidders and contractors. It is not intended to be all-inclusive and does not relieve the Contractor of his responsibility to determine which federal, state and local laws and regulations apply to his operations on this contract and to comply with them. A partial list of some of the most recent requirements follows:
    - a. Article 23, Title 27 of the Environmental Conservation Law, known as the "New York State Mined Land Reclamation Law," regulates borrow pits and aggregate sources outside state project areas where more than one thousand tons of minerals are removed from the earth within any twelve successive calendar months. Applications for permits to operate such facilities must be made to the New York State Department of Environmental Conservation.
    - b. Industrial Code Rule No. 53, as amended, issued by the State of New York Department of Labor, Board of Standards and Appeals, regulates the reporting of construction, excavation and demolition operations at or near underground facilities.

- c. Article 24 - Freshwater Wetland Act, an Act amending the Environmental Conservation Law, in relation to the regulation, management, protection and conservation of the freshwater wetlands of the State. This Act would require the Contractor to secure a permit from the clerk of the local government having jurisdiction or the State Department of Environmental Conservation if he wishes to undertake any regulated activities (such as excavation of borrow or disposal of soil material) upon freshwater wetlands as designated by the Commissioner of Environmental Conservation.
- d. Chapter 418 of the Laws of 1975 added a new Section 380-a to the Vehicle and Traffic Law requiring covering of vehicles transporting loose material except under certain circumstances. The New York State Department of Transportation has promulgated rules and regulations concerning the covering of loose cargo which may be found in 17 NYCRR, Part 158.
- e. When work is specified within the right-of-way of a New York State Highway, a New York State Highway Work Permit is required.
- f. All costs associated with the compliance of all laws, regulations and ordinances shall be included in the prices bid for the respective contract items involved unless otherwise provided for in the contract.

7. SUBLETTING OR ASSIGNING THE CONTRACT

The Contractor shall perform with its own organization, contract work amounting to not less than 30 percent of the original total contract price. Its own organization shall be construed to include only workers employed and paid directly by the Contractor and equipment owned or rented by it. The use of "specialty items" has been discontinued.

- 8. The Contractor shall water seeded and sodded areas and the cost of such watering shall be included in the prices bid for these items.

- B. Utilities: The various utility companies which have installations in the contract area shall be notified by the Contractor when he is ready to start work. He shall cooperate with utility companies in the relocation of their facilities and in protecting such services and appurtenances as may be exposed to hazard during his work.

The Contractor is cautioned that the location of utilities shown on the Contract Plans is not guaranteed, nor is there any guarantee that all such lines within the Contract limits have been shown on the plans. It will be the Contractor's responsibility to satisfy himself as to the exact condition and at his own expense to protect and support by sheeting, if necessary, all utilities encountered.

- C. The Contractor shall furnish for use of the field Engineers an approved waterproof building. This building shall be erected at a location to be selected by the Engineer and shall be separated from any building used by the Contractor. All the requirements of Item 637.N/A Engineer's Office N/A shall apply and payment shall be made under the respective item.



- D. Clearing and grubbing shall include work as ordered by the Engineer on the entire area between the right-of-way lines.
- E. The Contractor shall mow all grass and weeds to a minimum height of six inches on all areas between right-of-way lines before final acceptance of the project.
- F. County Roads in the vicinity of this project are not capable of sustaining the traffic of heavy loads under certain conditions of weather and moisture. The Contractor's attention is specifically called to the fact that the Deputy Commissioner-Highways will cause any road that is being damaged by heavy loads to be posted to a restricted loading. This limited loading restriction will not be removed for the hauling of road materials to the contract site without a suitable guarantee by the Contractor that he will repair the damaged sections of the roads at his own expense. The Contractor, in accepting this contract, will hold the County free from any liability because of the added cost. No loads will be accepted on the contract site if the loads transported exceed the limits of Article 10 of the Vehicle and Traffic Law. The maximum legal loadings are hereby stipulated:

- (a) Maximum gross load - per axle = 11 tons
- (b) Maximum gross load - two axles = 18 tons
- (c) Maximum gross load - more than two axles = 35 1/2 tons

Variations of (b) and (c):

(b) Variations of this restriction include (1) tandem rear axles less than forty-six (46) inches apart being deemed as a single axle; (2) consecutive axles being less than ten (10) feet apart.

(c) Variations of this restriction include tractor-trailers, whereby seventeen (17) tons plus the distance between the outermost axles times one thousand (1000) equals gross weight which shall not exceed thirty-five and one-half (35 1/2) tons.

G. DRAINAGE

Plugging - Where existing drainage structures are removed, the outlet pipe is to be removed and plugged at the structure, and/or plugged at the main, as ordered by the Engineer.

No direct payment will be made for this work. The cost to be included in the price bid for the drainage items in the Contract.

Tap-ins - Where the Contractor is required to break into existing structures or pipes for the proper installation of the storm drain system, no separate payment will be made for this work, but the cost thereof, shall be included in the price bid for the pipe items.

Temporary - The Contractor shall provide all temporary drainage facilities required to insure the satisfactory drainage of the entire project during construction. Unless specified otherwise, no direct payment will be made for temporary pipes, structures, ditches, channels and special grading, but the cost shall be included in the price bid for all the items of this contract.

H. USGA, USC & GS - BENCH MARKS OR OTHER GOVERNMENT MARKS

Whenever the Contractor encounters, in his work, any Government bench or reference mark, he shall report same to the Engineer in Charge who will instruct the Contractor in the procedure to be followed to provide the necessary protection and/or survey work required to transfer and reference the mark so it can be reestablished or relocated.

The Contractor will be responsible for the protection of the "mark", and it is noted that anyone who disturbs a Government "mark" is subject to both fine and imprisonment if proper arrangements are not made before the mark is disturbed.

I. NOTIFICATION OF FIRE, POLICE AND POSTAL AUTHORITIES

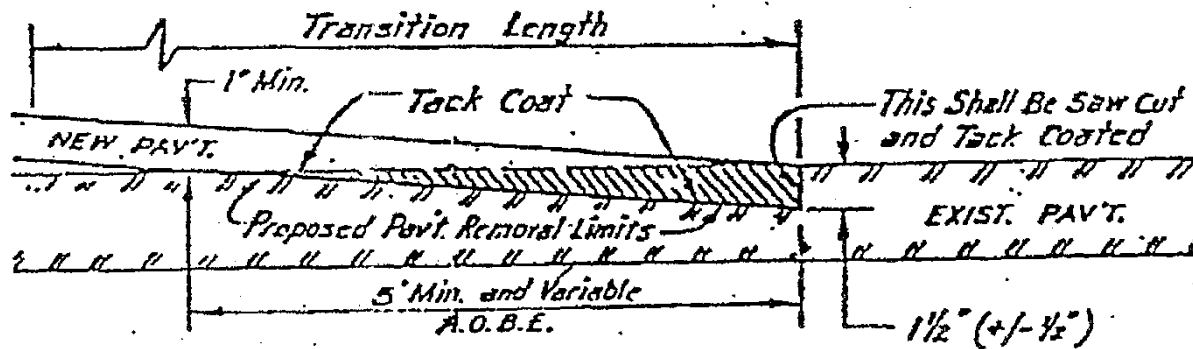
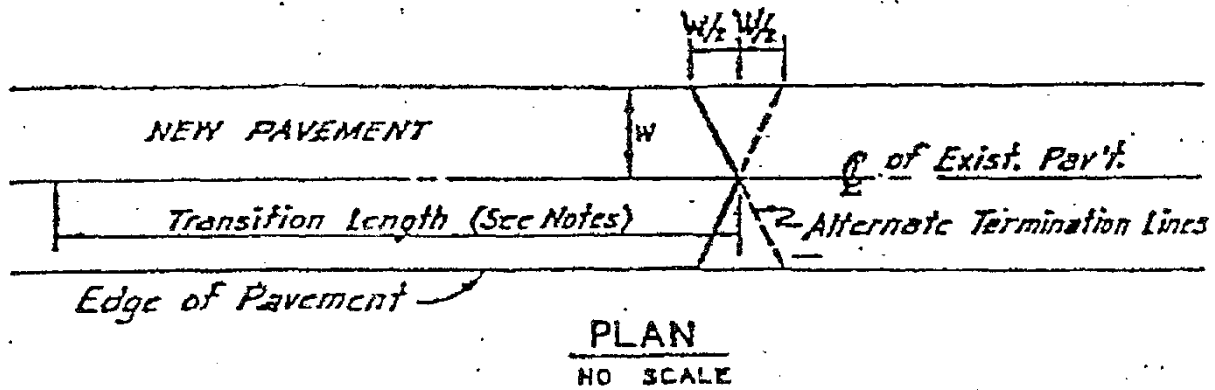
The Fire, Police and Postal Authorities for the areas concerned in this contract shall be notified in advance of the beginning of construction of the proposed schedule and shall be kept appraised of progress of the work in order to coordinate and maintain sufficient Fire and Police protection and Postal service.

The Contractor shall file with the above agencies a list of the names, addresses and telephone numbers of the principals or their authorized representatives who can be contacted at any time in the event of an emergency. The Contractor shall also provide the Engineer with a copy of the list noted above.

J. "BUTT" JOINTS FOR ASPHALT CONCRETE TRANSITIONS

Butt Joints will be required on the main line at the junction of the new and existing pavements, at major intersections or A.O.B.E. to provide a smooth riding pavement transition. "BUTT" JOINTS FOR ASPHALT CONCRETE TRANSITIONS

The following sketch shall be used as a guideline for constructing the transitions:



NOTES: The length of transition will be determined by existing gradients, depth of new asphalt courses and A.O.B.E. Areas that are over excavated or rough cut shall be brought up to "Proposed Pavement Removal Limits" with an acceptable leveling course. Tack coats shall meet the requirements of Subsection 702.

When cement concrete finished pavement is to be resurfaced with asphalt concrete, the Contractor may prefer to remove pavement to its full depth within the joint slot area to construct the "Butt" joint. This area will be regraded and the pavement replaces with Asphalt Concrete in a manner acceptable to the Engineer.

Payment for excavation, disposal, sawing pavement, tack coats and regrading subbase courses within the slotted areas shall be included in the prices bid for the various asphalt concrete items in the Contract.

#### K. DRIVEWAYS AND ENTRANCES

Driveways and entrances will be re-established where ordered by the Engineer with material in the Contract matching as near as possible the original construction or as shown on the plans or as ordered by the Engineer. These materials will be paid for under the appropriate contract items.

Driveways and Entrances beyond the right-of-way will be re-established upon request of the

abutting property owner affected, in accordance with Section 118, Sub.Paragraph 6 of the Highway Law.

L. REMOVAL OF EXISTING PAVEMENT, DRIVEWAYS AND SIDEWALKS

Where existing concrete or bituminous pavement, sidewalk and driveway courses are to be removed, they shall be saw cut to prevent irregular breakage and removed in such a way that the edge of the adjoining course to remain will be straight and cleanly cut.

Care should be used to prevent damage to underground facilities. The breaking up of existing pavement by means of dropping a heavy weight, known as a "head buster" or pavement breaker, will NOT be permitted.

All costs incidental to such work shall be included in the price bid for those items which require this procedure.

M. GUIDE RAIL

The Contractor's attention is directed to the fact that the practice of erecting guide rail, mall barrier and median barrier on their respective posts overnight and on weekends and holidays without completely bolting the beam splices will not be permitted. All rail and barrier in place during these times shall be structurally complete.

N. DRUG AND ALCOHOL PROGRAM

The Contractor will be required to comply with the drug and alcohol program as set forth under Federal Law CFR, Title 49, Part 40 and 382. Therefore, the Contractor must complete the "Acknowledgement of Drug and Alcohol Testing Program Compliance" form (DA-1) included herein and submit it with the bid.

O. Every worker employed in the performance of a public work contract shall be certified as having completed an OSHA 10 safety training course.

All contractors and sub contractors must attach a copy of proof of completion of the OSHA 10 course to the first certified payroll submitted to the contracting agency and on each succeeding payroll where any new employee is first listed.

Proof of completion may include but not limited to:

- copies of bona fide course completion card;
- training roster, attendance record of other documentation from the certified trainer pending issuance of the card.

A certification by the employer attesting that all employees have completed such course is not sufficient proof that the course has been completed.

Any questions regarding the statute may be directed to the New York State Department of Labor, Bureau of Public Work at 518-485-5696.

P. SPDES GENERAL PERMIT COMPLIANCE

The Contractor shall not cause or contribute to the Erie County Department of Public Works, Division of Highways (“Division”) violating any of the terms, conditions, or requirements of the New York State Pollutant Discharge Elimination System (“SPDES”) General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (“MS4s”), Permit No. GP-0-08-002, as amended or revised (“SPDES MS4 Permit”) and the Contractor shall not violate any of the terms, conditions, or requirements of the SPDES General Permit for Stormwater Discharges from Construction Activity, Permit No. GP-0-20-001, as amended or revised (“SPDES Construction Permit”).

1. *Illicit Discharge Prohibition.* In accordance with the terms of the SPDES MS4 Permit, the Contractor shall not discharge or allow to be discharged any materials other than stormwater into the municipal separate storm sewer system, which shall be deemed to include any roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm sewers, any of the foregoing of which are owned or operated by a publicly funded entity, including a City, Town, Village, or County in New York State; are designed or used for collecting or conveying stormwater; are not a combined sewer; and are not part of a Publicly Owned Treatment Works, as defined at 40 CFR § 122.2, except as provided in the SPDES MS4 Permit. In addition, the Contractor shall not cause or contribute to a violation of an applicable water quality standard.
2. *SWPPP Requirement.* In accordance with the terms of the SPDES Construction Permit, if the work to be performed in accordance with this Itemized Proposal, Special Provisions, and Contract (“Contract”) disturbs one (1) acre or more of land, or less than one acre that is part of a larger common plan of development or sale disturbing one (1) acre or more of land in the aggregate (“Land Disturbance Activity”), then the Stormwater Pollution Prevention Plan (“SWPPP”) prepared for the project by a professional engineer or landscape architect licensed in the State of New York shall be attached to this Contract.
3. *Contractor and Subcontractor Certification.* The Contractor shall sign and date a copy of the following certification statement before undertaking any Land Disturbance Activity and shall ensure that any subcontractor who will be involved in soil disturbance and/or stormwater management practice installation shall also sign such certification statement: “I hereby certify that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan and agree to implement any corrective actions identified by the qualified inspector during a site inspection. I also understand that the owner or operator must comply with the terms and conditions of the New York State Pollutant Discharge Elimination System (“SPDES”) general permit for stormwater discharges from construction activities and that it is unlawful for any person to cause or contribute to a violation of water quality standards. Furthermore, I understand that certifying false, incorrect or inaccurate information is a violation of the referenced permit and the laws of the State of New York and could subject me to criminal, civil and/or administrative proceedings.” Such certification statement shall include the name and title of the individual providing the signature, the address and telephone number of the Contractor or subcontractor, the address (or other identifying description) of the construction site, and the date the certification is made. A copy of all such certification statements shall be attached to and become a part the SWPPP.



## DESCRIPTION OF OPERATION TASKS

**Project Number**

**Project Title**

**Bid Date**

**Erie County**

1) Survey

The staffing for this operation will range from a maximum of 3 workers to a minimum of one surveyor, with an average of 2 workers. The first operation will be to run the baseline, and from that he will run the centerline, then progress with the daily operations of the project.

2) Construction Signs

Construction signs will be installed the day after the award. A four-man crew will install these signs. Upon completion and acceptance of the project, the signs will be removed with a similar crew.

3) Clearing and Grubbing

Clearing and grubbing will be performed by a subcontractor. His crew will consist of an average of 2 workers. The subcontractor will start as soon as the award is granted. All work will be done under the direction of the general contractor.

...

18) Asphalt Pavement Base

Base pavement will be installed as soon as subbase is fine graded. The operation will begin on the northbound lanes(s) from sta.\_\_\_\_ to sta.\_\_\_\_. The operation will be continuous until completed, and then repeated for the southbound lane(s). The duration for the operation, per lane(s) will be approximately \_\_\_ days/weeks.

...Continue describing operations as applicable.

**THE ERIE COUNTY WORKFORCE DEVELOPMENT AND DIVERSIFICATION**  
**NEW YORK STATE CERTIFIED WORKER TRAINING PROGRAM**

1. County of Erie Local Law No. 3-2018

**COUNTY OF ERIE**  
**LOCAL LAW INTRO NO. 3 – 2018**  
**Local Law No. 3-2018**

A LOCAL LAW in relation to a requirement for New York State Certified Worker Training Programs by contractors and subcontractors under construction contracts, as defined herein, with the County of Erie.

**BE IT ENACTED BY THE ERIE COUNTY LEGISLATURE AS FOLLOWS:**

Section 1. Legislative Intent.

The Erie County Legislature hereby finds, declares and determines that:

- A. New York Labor Law Section 816-b specifically authorizes this Local Law.
- B. There has been a long and productive history of partnership between labor and management in the training of workers in New York State.
- C. New York State Certified Worker Training Programs are valuable educational and training tools for the local workforce by reducing reliance on out-of-area labor for construction projects.
- D. New York State Certified Worker Training Programs provide opportunities to residents in this area through training and education for skilled jobs.
- E. These skilled jobs allow us to reinvest our taxpayer dollars spent on local construction projects so that local workers and local tax dollars remain within the local community.
- F. It would be valuable to encourage labor and business/industry to participate in New York State Certified Worker Training Programs to meet the increased need for trade persons while providing residents the means to earn a better living and fostering the local and regional economies.
- G. It is valuable for local government to encourage broad participation in such New York State Certified Worker Training Programs by the residents of Erie County and to foster the equal opportunity of men and women of all races and backgrounds to participate in order to enhance workforce development and diversification, and to prevent exclusionary practices which have historically excluded women and minorities.
- H. The New York State Department of Labor sets objective standards and provides oversight for New York State Certified Worker Training Programs. These Programs are important because they require on-the-job training and classroom training, and provide objective industry standards. In effect these programs lead to a standardized, cost effective and skilled local workforce.
- I. Nothing in this Local Law should be read to abrogate the duty of Erie County with respect to its MBE/WBE requirements.

Section 2. Short Title.

This Local Law shall be known as "The Erie County Workforce Development and Diversification New York State Certified Worker Training Program."

Section 3. Definitions.



- A. "New York State Certified Worker Training Program" shall mean: a state registered and regulated apprenticeship program through the New York State Department of Labor that has been approved by the New York State Commissioner of Labor in accordance with Article 23 of the New York Labor Law, that includes the following standards:
- i. An organized, written plan in place that embodies the terms and conditions of employment, and the training and supervision of one or more workers;
  - ii. A schedule of wages to be paid to the worker consistent with the skills required and approved by the New York State Department of Labor;
  - iii. Equal opportunity and affirmative action plans;
  - iv. Workforce development and diversification goals to ensure that the contractor will diligently work toward a minority workforce goal of 30% minority and female participation combined in project personnel including trades people, trainees, journeymen, apprentices and supervisory staff;
  - v. A minimum of ten percent (10%) of the total construction workers. Trades people, trainees, journeymen, and apprentices employed at any given time on a particular project by any and all contractors or subcontractors must be consist of persons participating in a New York State Certified Worker Training Program.
  - vi. In all cases, such Certified Apprenticeship Training Program must be specific to the type and scope of work which is being performed and must have a graduation rate of at least thirty percent (30%) as determined by the New York State Department of Labor.**
- B. "Commissioner" shall mean the Commissioner of the Erie County Department of Public Works.
- C. "Construction contract" shall mean projects with a value in excess of \$250,000 where Erie County is a direct or indirect party to the contract which includes more than an incidental amount of construction type activity intended to benefit the public, including all work which is necessary, incidental or connected with the execution of the contract which is performed by construction workers. A public entity need not be party to the construction contract. A construction contract includes: projects that Erie County funds directly, projects that Erie County funds indirectly by providing funds to a separate entity to perform the construction type activity; privately financed construction projects specifically built with the intent of leasing them to any Department of Erie County government; and construction projects built under Erie County's direction and later paid for with Erie County funds.
- D. "Construction subcontract" shall mean any subcontract between a contractor who has a construction contract as defined in Section 3, subdivision C above.
- E. "Contractor" or "subcontractor" shall mean a contractor or subcontractor that directly employs construction workers, as defined below, under a construction contract or construction subcontract, as defined herein, for which a New York State Certified Worker Training Program is required.
- F. "Construction worker" shall mean an individual directly involved in the construction, reconstruction, improvement, rehabilitation, installation, alteration, renovation, demolition or otherwise providing for any building, facility, roads, highways, bridges, or physical structure of any kind, but does not include professional services employees or those construction workers for which a New York State Certified Worker Training Program does not exist.

#### Section 4. Requirements.

- A. Any contractor, prior to entering into a construction contract as set forth in section 3 (C) above, or any subcontractor entering into a construction subcontract with a contractor who has a construction contract with the County of Erie is required to have in place and provide written proof of same at the time of bid a

New York State Certified Worker Training Program, either internally to the contractor or subcontractor and/or through an organization servicing several contractors or subcontractors, appropriate for the type and scope of work to be performed.

B. Any contractor or subcontractor, as defined herein, shall strive to meet the minimum workforce development and diversification goals set forth in section 3(A) (iv) above. Such contractors and/or subcontractors shall provide the Commissioner or designated compliance officer with the following:

- i. A monthly workforce census and such other employment and/or payroll records necessary to verify an attempt to achieve the workforce development and diversification goals set forth in Section 3(A)(iv) above.
- ii. Access to and cooperation with the project compliance officer to review records on-site and/or at worksite premises to validate attempts to achieve the workforce development and diversification goals set forth in Section 3(A)(iv) above.
- iii. With bid submission, a statement committing to providing apprenticeship training opportunities to workers, as well as details of workforce diversification recruiting program directed at attracting candidates to fill positions to meet the minimum workforce development and diversification goals set forth in Section 3(A)(iv) above.

#### Section 5. Rules & Regulations.

As of the date this Local Law becomes effective, the Commissioner of the Erie County Department of Public Works shall promulgate such rules and regulations that are lawful, necessary and appropriate to implement, enforce or otherwise carry out the purposes of this Local Law, provided that the Legislature, by simple majority, has not voted to disapprove such rule or regulation within sixty (60) days from the Commissioner's written notice to the Legislature that such rule or regulation has been promulgated.

#### Section 6. Equal Employment Monitoring.

There shall be an Independent Monitor to report on the compliance of each County contractor and subcontractor with this Local Law's workforce development and diversification goals. The Commissioner of DPW shall develop regulations that provide for the compensation of the Independent Monitor.

The Monitor shall monitor and review every facet of construction to report what percentage of the goals that are established for minority and female participation are met or exceeded. The Monitor shall report to the Equal Employment Opportunity Office on the compliance of each contractor and subcontractor with the workforce development and diversification goals.

The Monitor shall file monthly reports with the Equal Employment Opportunity Office regarding the actual workforce development and diversification goals, including reporting all instances of non-compliance; make appropriate recommendations to the Equal Employment Opportunity Office when non-compliance is evident with supportive documentation; develop a database of the workforce of each contractor and subcontractor to provide a visual format of each contractor's workforce, both monthly and year-to-date cumulative totals on each construction contract.

#### Section 7. Compliance.

The Director of Erie County Division of Equal Employment shall ensure that all contractors and subcontractors entering into a construction contract as it is defined herein, maintain records which prove that each construction worker as it is defined herein, signs in and out at the beginning and end of each day, listing next to his or her name his or her craft, and status as journeyman or apprentice, if applicable.

#### Section 8. Penalties.

Violation of any provision of this Local Law shall constitute cause, grounds or other legal justification for termination of any contractual agreement with any contractor or subcontractor engaged in a construction contract or construction subcontract with the County, in accordance with County and state laws, rules and regulations governing the termination of such contractual agreements.

Section 9. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof, to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional such order of judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Section 10. Applicability.

**This Local Law shall apply to construction contracts advertised for bids on or after the effective date with the following condition:**

**Apprenticeship agreements currently in place as of the effective date of this Local Law which are still in probationary status or apprenticeship agreements which were in probationary status during the period preceding the specific trade's program length as set forth in the New York State Prevailing Wage Schedule, shall be exempt from the 30% apprenticeship graduation requirement specified in Section 3 (A) (vi) for the period measured from the date the apprenticeship program is registered with the New York State Department of Labor plus the specific trade's program length plus two years.**

Section 11. Effective Dates.

This Local Law shall take effect 30 days after the filing with the Secretary of State, in accordance with Section 27 of the New York State Municipal Home Rule Law.

SPONSORS:     PATRICK BURKE  
                  APRIL N.M. BASKIN  
                  JOHN BRUSSO

10.02 Rules and Regulations Adopted by the Erie County Commissioner of Public Works Regarding Local Law No. 2-2006

**RULES AND REGULATIONS ADOPTED BY THE  
ERIE COUNTY COMMISSIONER OF PUBLIC WORKS  
PROMULGATED FOR LOCAL LAW 2-2006 AND STILL BEING USED FOR THE PURPOSES OF:  
COUNTY OF ERIE  
LOCAL LAW NO. 3-2018**

A LOCAL LAW in relation to a requirement for New York State Certified Worker Training Programs by contractors and subcontractors under construction contracts, as defined herein, with the County of Erie.

Pursuant to Section 5 of Erie County Local Law No. 2-2006, "the Commissioner of the Erie County Department of Public Works shall promulgate such rules and regulations that are lawful, necessary and appropriate to implement, enforce or otherwise carry out the purposes of this Local Law..." Such rules and regulations are as follows:

**1. Definitions.**

“Bidders” – an individual or entity which submits a formal Bid for a Construction Contract, as hereinafter defined.

“Bids” – formal bids submitted for a Construction Contract, as hereinafter defined, in accordance with New York General Municipal Law.

“Commissioner” – Erie County Commissioner of Public Works

“Construction Contract” – a contract for a Project which includes more than an incidental amount of construction-type activity performed by persons in trades or careers for which there exists an NYSCATP, as hereinafter defined.

“Contracting Agency” – a department, division, board, agency or office of the County, an entity undertaking a Project that Erie County funds indirectly, or an entity undertaking a Project with the specific intent of leasing the completed Project to the County, which solicits and receives Bids for a Construction Contract.

“Local Law” – Erie County Local Law 2-2006

“Monitoring Agency” – the Erie County Equal Employment Opportunity Office

“New York State Certified Apprentice Training Program” or “NYSCATP” - a state registered and regulated apprenticeship program(s) approved by the Commissioner of the New York State Department of Labor in accordance with Article 23 of the Labor Law and the Rules and Regulations thereto.

“Prime Contractor” – the party with whom the Contracting Agency contracts with on a Project.

“Project” – the construction, reconstruction, improvement, rehabilitation, installation, alteration, renovation, demolition or otherwise of any building, facility, roads, highways, bridges, or physical structure of any kind, estimated by the Contracting Agency as having a cost to complete in excess of \$250,000, for which the County is a direct or indirect party to a Construction Contract. Projects include those: that Erie County funds directly, either in whole or in part; that Erie County funds indirectly, either in whole or in part, by providing funds to a separate entity to perform the construction-type activity; privately financed construction projects specifically built with the intent of leasing the completed project to Erie County; and construction projects built under Erie County’s direction and later paid for with Erie County funds.

“Rules” – these rules and regulations promulgated by the Commissioner pursuant to the Local Law.

“Subcontractor” – A subcontractor to a Prime Contractor.

“Workforce” – the total worker hours anticipated on the Construction Contract to be undertaken by workers in careers

or trades for which there exists an NYSCATP.

## **2. Rules and Regulations.**

- A. Each Contracting Agency shall include in its bid specifications provisions for the implementation of the Local Law and these Rules. Bids shall demonstrate a Bidder's ability to comply with the Local Law and these Rules and in the event that Bidder is a successful Prime Contractor on a Construction Contract.
- B. Bidder shall submit as part of the Bid a copy of the certification of approval of the NYSCATP by the New York State Department of Labor which will be used by the Bidder in connection with the Construction Contract. Such NYSCATP shall be a NYSCATP registered by the NYS Commissioner of Labor which will be utilized by the Bidder on the Construction Contract by the Bidder as a Prime Contractor or by the Bidder's Subcontractor(s).
- C. As part of its' Bid, Bidder shall provide a written plan demonstrating how apprentices will be utilized by the Bidder as Prime Contractor or by Subcontractor(s) to the Bidder as Prime Contractor. Such plan shall include at a minimum, but not be limited to the following:
  - i. An organized, written plan in place that embodies the terms and conditions of employment, training and supervision of one or more apprentices;
  - ii. A schedule of wages to be paid to the apprentices consistent with the skills required and approved by the New York State Department of Labor;
  - iii. Equal employment opportunity and affirmative action plans.
  - iv. Demonstration that ten percent (10%) of the Workforce of the Prime Contractor (inclusive of the workforce utilized by any Subcontractor(s) to the Bidder) shall consist of persons participating in New York State Certified Apprentice Training Programs.
- D. In the alternative Bidder may provide a statement as to the inapplicability of apprenticeship participation on the Prime Contract and the related subcontracts due to the lack of career opportunities in NYSCATP approved by New York State Department of Labor Commissioner or that the magnitude of the Construction Contract would make use of apprentices impracticable. In the event that Bidder provides a statement that there is a lack of such career opportunities or the use of apprentices on the Construction Contract is impracticable, said Bidder may not be deemed non-responsive by virtue of the submission of such a statement, as determined by the Monitoring Agency. Applicability of this section will be viewed within the total Workforce of each Prime Contract and not as a function of each subcontract of the Construction Contract as a whole.
- E. As part of its' Bid, Bidder shall provide affirmation of its commitment toward acceptable achievement or progress towards the County of Erie workforce development and diversification goal in all construction contracts of thirty percent (30%) minority and female participation combined in project personnel including trades people, trainees, journeymen, apprentices and supervisory staff.
- F. Contracting Agency may determine prior to the advertisement of bids for the Project or prior to the award of Bids that the nature of the Construction Contract does not provide an adequate opportunity for the use of NYSCATP for such reasons including, but not limited to, that:
  - i. 75% or more of the value of the Construction Contract involves material, equipment and/or supplies; or
  - ii. There is a lack of NYSCATP approved by the Department of Labor for at least 75% of the work hours anticipated to be spent on construction-type activity involved in the Construction Contract; or
  - iii. The Construction Contract is in response to an emergency condition; or
  - iv. The Project is estimated to cost less than \$250,000 or the Bid amount is less than \$250,000; or

- v. None of the bids received were from Bidders who had an NYSTACP.
- G. All Bids shall be reviewed by the Monitoring Agency within 10 business days of delivery of the Bids by the Contracting Agency to the Monitoring Agency. A Contracting Agency shall not reject any Bid as being non-responsive to the requirements of the Local Law and these Rules, unless the Monitoring Agency, within 10 business days of receipt of Bids from the Contracting Agency, provides the Contracting Agency with a written report recommending non-responsiveness of the Bidder and the reasons therefore. Determination of a Bidder's compliance with the Local Law and these Rules shall be the responsibility of the Monitoring Agency.
- H. The Contracting Agency is permitted to require within the Bid specifications for a Project, a reasonable fee for the Prime Contractor to hire an independent monitor to review and report on the diversification goals of the Local Law

### **3. Effect**

These Rules and Regulations shall become effective immediately. No Rule or Regulation promulgated herein shall be disapproved by the Erie County Legislature unless and until such time as the public, following 10 days advertised notice, is given the opportunity to comment upon such rule or regulation.

## **Pay Equity Certification on County Contracts**

During the term of this Contract, the Awardee shall comply with Executive Order 13 (2014), and the Awardee shall make such records available, upon request, to the County's Division of Equal Employment Opportunity for review. The County shall have the right, upon reasonable notice and at reasonable times, to inspect the books and records of the Awardee, its offices and facilities, for the purpose of verifying information supplied in the Erie County Equal Pay Certification and for any other purpose reasonably related to confirming the Awardee's compliance with Erie County Executive Order No. 13 (2014). Violation of the provisions of Executive Order 13 (2014), which is attached hereto and made a part hereof, can constitute grounds for the immediate termination of this contract and may constitute grounds for determining that a bidder is not qualified to participate in future county contracts.

# **Executive Order #013**

## **Pay Equity Certification on County Contracts**

**WHEREAS**, federal law, including the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964 and Federal Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity) (together "Federal Equal Pay Law"), requires that men and women in the same workplace be given equal pay for equal work; and

**WHEREAS**, Section 194 of New York State Labor Law ("NYS Equal Pay Law") prohibits compensating men and women differently for the same work; and

**WHEREAS**, on average, a full-time working woman in New York State earns just 85 cents for every dollar that a man earns and the pay gap is even greater for African-American and Latina women; and

**WHEREAS**, females make up nearly fifty-two percent of Erie County's population; and

**WHEREAS**, women make up nearly half of the U.S. labor force and are a growing number of breadwinners in their families; and

**WHEREAS**, this pay differential shortchanges women and their families by thousands of dollars a year, and potentially hundreds of thousands of dollars over a lifetime, presenting a lifelong threat to those families' economic security and reducing their earnings through Social Security and other post retirement plans; and

**WHEREAS**, poverty is recognized as a leading cause of or contributing factor to many social problems, including but not limited to substance abuse, domestic violence, child abuse, improper nutrition, obesity, improper health care and criminal conduct; and

**WHEREAS**, the impact of pay differentials is exacerbated as workers age, causing underpaid workers to disproportionately rely upon various forms of public support in their retirement years; and

**WHEREAS**, pay inequity can significantly impact the County, necessitating the provision of various public subsidies for low income residents and leading to the lack of receipt of income by women residents which would be spent in our local economy; and

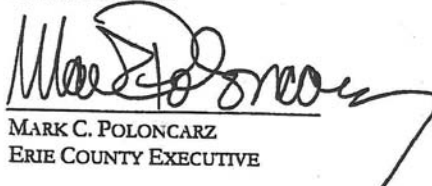
**WHEREAS**, through the enforcement of current state and federal laws that ban unequal pay for equal work, Erie County can help ameliorate the many negative consequences of pay inequality, thereby improving the lives of those who might otherwise be underpaid, strengthening families and protecting children, and

reducing the demand for public services, all positively impacting county, state and federal budgets.

**NOW, THEREFORE, I MARK C. POLONCARZ**, Erie County Executive, by virtue of the authority vested in me by the Erie County Charter § 302, do hereby order as follows:

1. It is ordered that on and after January 1, 2015, all Erie County offices, departments and administrative units, including but not limited to the Division of Purchase, fully implement a requirement in all bids, requests for proposals and other contract solicitations that the contractor submit an Erie County Equal Pay Certification which certifies the contractor's compliance with Federal Equal Pay Law and New York State Equal Pay Law (together, the "Equal Pay Laws"). Such certification shall be required prior to execution of the contract; and it is,
2. Further ordered that such certification shall include a representation by the contractor that it has not been the subject of an adverse finding under the Equal Pay Laws within the previous five years and shall include disclosure of any currently pending claims against the contractor; and it is,
3. Further ordered that violation of any provision of the Equal Pay Laws during the effective period of such a contract or the filing of a false or misleading Erie County Equal Pay Certificate may constitute grounds for immediate termination of such a contract; and it is,
4. Further ordered that violation of any provision of the Equal Pay Laws during the effective period of such a contract or the filing of a false or misleading Erie County Equal Pay Certificate may constitute grounds for determining a bidder or responder is not qualified to participate in future County contracts; and it is,
5. Further ordered that the Law Department prepare an Erie County Equal Pay Certification for use by Erie County offices, departments and administrative units and assure compliance with this Executive Order in the contract approval process; and it is,
6. Further ordered that the County Division of Equal Employment Opportunity ("EEO") establish a procedure for compliance monitoring and periodic auditing of certification records; and it is,

**GIVEN**, under my hand and the Privy Seal of the County of Erie in the City of Buffalo this 28<sup>th</sup> day of October, in the year two thousand fourteen.

COUNTY OF ERIE  
BY:   
MARK C. POLONCARZ  
ERIE COUNTY EXECUTIVE