

AGREEMENT

CA 2927L

This Agreement, made this 10th day of August 2022, by and between the County of Broome, a municipal corporation organized and existing under the laws of the State of New York and having offices at Edwin L. Crawford County Office Building, 60 Hawley Street, PO Box 1766, Binghamton NY 13902, and the Town of Windsor (hereinafter "Grantee"), having offices at 124 Main Street, Windsor, NY 13865.

WITNESSETH:

WHEREAS, Broome County has received funding through the American Rescue Plan Act, and

WHEREAS, Broome County wishes to use part of said funding to support purchase of a new plow/dump truck,

NOW, THEREFORE, the parties agree as follows:

1. Project Description:

The County will provide financial assistance to the Grantee to support purchase of a new plow/dump truck.

2. Grant Amount:

The Grantee agrees to receive, and Broome County agrees to award grant funds not to exceed \$270,000.00 for this project.

3. Grant Term:

This grant will expire on December 31, 2022. Any funds not expended for the project shall be returned to Broome County. Broome County and The Grantee may agree in writing to extend the grant beyond December 31, 2022 to expend any funds remaining in the grant.

4. Reporting:

The Grantee understands that these grant funds were provided by the United States Government under the American Rescue Plan Act and that Broome County is required to provide documentation verifying that the funds were used for purposes permitted under the Act. The Grantee shall provide Broome County, at its request, with the following records and reports within the time period determined by Broome County:

- (a) a narrative and flow chart describing the internal controls of The Grantee for guaranteeing that the funds provided are properly used to support the Project Description as set forth in Section 1 above.
- (b) Broome County is authorized upon request to pull samples of vouchers and records to confirm that the funds are being used for proper grant purposes.
- (c) quarterly reports of expenditures made pursuant to this agreement including, but not limited to, number of vouchers issued, grant funds provided to the Grantee, and copies of all documents and vouchers confirming the payments to the Grantee and the Grantee's use of funds for Grantee's Project. Such reports shall include information on monthly expenditures as well as year to date expenditures.
- (d) an annual audit of the program expenditures prepared in compliance with generally accepted government accounting standards. If The Grantee is required to prepare a Single Audit, a copy of the Single Audit may be provided to Broome County in place of the program specific audit. This annual audit shall be paid for by Grantee.
- (e) if The Grantee expends more than \$750,000 of grant funds in any calendar year The Grantee shall retain an auditor at its expense to perform a Single Audit.
- (f) The Grantee shall be responsible for filing and complying with all required reporting requirements under the American Rescue Plan Act.

5. Insurance:

The Grantee agrees to provide to Broome County the required insurance described in Exhibit A attached hereto. The insurance shall be in a form and from companies acceptable to the County, and The Grantee shall deliver to Broome County certificates of insurance or provide other evidence acceptable to Broome County documenting compliance with this paragraph.

6. Hold Harmless:

The Grantee agrees to indemnify and defend Broome County and hold Broome County harmless from any claims against any and all of them involving or in any way arising out of this agreement.

7. Assignment:

The Grantee shall not assign or otherwise transfer any of its rights, duties, or obligations under this agreement without the prior written consent of Broome County.

8. Audit:

The Grantee agrees to actively participate, if requested, and without compensation in audits of the Grantee's Project by Broome County or the United States Government.

9. No Waiver:

No failure on the part of Broome County to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Broome County of any rights hereunder preclude any other or future exercise thereof or the exercise of any other right.

10. Applicable Law:

This agreement and the rights and obligations of the parties hereunder shall be construed and interpreted in accordance with the laws of the State of New York.

11. Notice:

All notices permitted or required under this agreement shall be in writing and shall be deemed to be given when delivered personally or deposited in the mail, postage prepaid, certified mail addressed to The Grantee and Broome County at their respective addresses set forth above. Either party may change its address by notice similarly given.

12. Records:

The Grantee agrees to keep and maintain books, records and other documents relating to the receipt and disbursements of monies advanced by Broome County pursuant to this grant, and Broome County and the United States government shall, at all reasonable times, have access to and the right to inspect, copy, audit and examine all such books, records and other documents of The Grantee until all issues arising from the grant agreement have been finally settled.

13. Recapture of Funds:

Broome County reserves the right to recapture grant funds in the event The Grantee fails to 1) comply with the terms of the agreement, 2) accept conditions imposed by Broome County at the direction of federal, state, or local agencies, or has any unexpended grant funds at the termination of this agreement. All funds shall be repaid to Broome County within 30 days of request but in no event later than December 31, 2023.

14. Cost of Court Expenses:

The Grantee agrees to pay reasonable attorney's fees, court costs and disbursements in the event Broome County takes legal action against The Grantee to enforce Broome County's rights under this agreement.

15. Public Information Disclosures:

The Grantee understands and agrees that some information furnished in connection with this grant involves the use of public funds and as such may be made public pursuant to statutes of the United States or the State of New York.

16. All Applicable Laws Incorporated by Reference:

Any and all provisions which are required by law or regulation to be included herein, which are not specifically referenced herein, shall nonetheless be deemed to be included in this agreement as if fully set forth herein.

17. Severability and Integration:

- a) All parties agree that should any provisions of this grant be determined to be invalid or unenforceable such determination shall not affect any or all of the other terms and provisions of this grant which shall continue in full force and effect.
- b) The internal paragraph headings are included for guidance only and shall not be construed to define the rights or obligations of the respective parties.
- c) This document, together with any affixed attachments, constitutes the entire agreement between the above-named parties. This agreement supersedes any prior written or oral agreements between the parties.

IN WITNESS WHEREOF, The Grantee and Broome County have executed this agreement as of the date first above written.

County of Broome

By: _____

JASON T. GARNAR

County Executive

Approved, as to form
By ILWS
BROOME COUNTY
ATTORNEY'S OFFICE

Town of Windsor

By: _____

Risk Management & Insurance Specifications

Project Description or Contract Number	Various grantees funding for various projects to promote economic development. CA 2927 thru CA 2927G
Date Issued	February 4, 2022
Vendor name ("Contractor")	Various entities within Broome County
County Department	Executive

Please read these specifications very carefully. These specifications are part of your contract with Broome County. It is advisable that you forward a copy of these specifications to your insurance agent. Broome County's waiver of any requirement(s) set forth herein shall not constitute a waiver of any other contract provision.

Part I. General Provisions

1. The Contractor shall procure and maintain during the term of this contract, at the Contractor's expense, the insurance policies listed in Part II with limits equal to or greater than the enumerated limits.
2. The contractor shall be solely responsible for any self-insured retention or deductible losses under each of the required policies.
3. Every required policy, including any required endorsements and any umbrella / excess policy, shall be primary insurance. Insurance carried by Broome County, its officers, or its employees, if any, shall be excess and not contributory insurance to that provided by the Contractor.
4. Every required coverage type shall be "occurrence basis".
5. The Contractor may utilize umbrella/excess liability coverage to achieve the limits required hereunder; such coverage must be at least as broad as the primary coverage (follow form).
6. All insurance certificates must be approved by the Office of Risk & Insurance Management. See section II for specific requirements regarding insurance proof.
7. The County reserves its right to request certified copies of any policy or endorsement thereto.
8. All insurance shall be provided by insurance carriers licensed & admitted to do business in the State of New York and must be rated "A-VII" or better by A.M. Best (Current Rate Guide).
9. If the Contractor fails to procure and maintain the required coverage(s) and minimum limits such failure shall constitute a material breach of contract, whereupon Broome County may exercise any rights it has in law or equity, including but not limited to the following:
 - (a) immediate termination of the contract
 - (b) withholding any / all payment(s) due under this contract or any other contract it has with the vendor (common law set-off) OR
 - (c) procuring or renewing any required coverage(s) or any extended reporting period thereto and paying any premiums in connection therewith. All monies so paid by Broome County shall be repaid upon demand, or at the County's option, may be offset against any monies due to the Contractor.

Part II. Required Insurance – Minimum coverage types and amounts

Coverage Type	Minimum Limits
<u>Commercial General Liability (CGL) including:</u> <input type="checkbox"/> Products & completed operations shall not be excluded. <input type="checkbox"/> Broome County shall be named additional insured. The additional insured endorsement for the insurance shall not contain any exclusion for bodily injury or property damage arising from completed operations. <input type="checkbox"/> Proof of additional insured coverage shall be evidenced through a carrier issued endorsement. (ISO CG 20 10 11 85 or equivalent)	\$1,000,000 / \$2,000,000 Per occurrence / minimum annual aggregate limit

1. **The certificate face shall:**

- indicate coverage(s) (other than Workers' Compensation & Disability) & minimum amounts required in part II.1
- provide that the coverage(s) shall not be cancelled, terminated or materially changed (including an insurance limits reduction) unless **thirty (30) days** prior written notice has been given to the County Office of Risk & Insurance Management.
- Disclose all policy exclusions
- Disclose the amount of self-insured retention or deductibles.
- Show Products & completed operation

2. **The Additional Insured & Certificate Holder should read:**

County of Broome
Attn: Office of Risk & Insurance Management
PO Box 1766
Binghamton, NY 13902-1766

Part III Defense and Indemnification

The following provisions concerning indemnification shall not be construed to indemnify the County for damages arising from bodily injury to persons or property contributed to, caused by or resulting from the sole negligence of the County or its employees.

The Contractor agrees to indemnify and hold the County of Broome and any officer, employee and/or agent thereof free and harmless from any and all losse(s), penalty(ies), damages, settlement(s), cost(s), charge(s), professional fee(s) or other expense(s) or liability(ies) of every kind arising from or relating to any and all claim(s), lien(s), demand(s), obligation(s), action(s), proceedings or causes of action of any kind in connection with, or arising directly or indirectly from the negligent error(s) and/or omission(s) and/or act(s) of the Contractor (including Contractor's employees, agents or and/or subcontractors) in the performance of this agreement.

Without limiting the generality of the preceding paragraphs, the following shall be included in the indemnity hereunder: any and all such claims, etc., relating to personal injury, death, damage to property, or any actual or alleged violation of any applicable statute (including specifically but not limited to New York State Labor Law §§ 200; 202; 240 & 241), ordinance, administrative order, executive order, rule or regulation, or decree of any court of competent jurisdiction in connection with, or arising directly or indirectly from, errors and/or negligent acts by the Contractor, as aforesaid,.

Part IV Safety

Broome County specifically reserves the right to suspend or terminate all work under this contract whenever Contractor and/or contractor's employees or subcontractors are proceeding in a manner that threatens the life, health or safety of any of contractor's employees, subcontractor's employees, county employees or member(s) of the general public on county property. This reservation of rights by Broome County in no way obligates Broome County to inspect the safety practices of the Contractor.

If Broome County exercises its rights pursuant to this part, the contractor shall be given three days to cure the defect, unless Broome County, in its sole and absolute discretion, determines that the service cannot be suspended for three days due to Broome County's legal obligation to continuously provide contractor's service to the public or Broome County's immediate need for completion of the Contractor's work. In such case, Contractor shall immediately cure the defect.

If the Contractor fails to cure the identified defect(s), Broome County shall have the right to immediately terminate this contract. In the event Broome County terminates this contract, any payments for work completed by the Contractor shall be reduced by the costs incurred by Broome County in re-bidding the work and /or by the increase in cost that results from using a different vendor.

Intro No. 47
Date 6/16/2022
Reviewed by
Co. Attorney MSA
Date 6/1/22

RESOLUTION
BROOME COUNTY LEGISLATURE
BINGHAMTON, NEW YORK

Permanent No. 2022-252
Date Adopted 6/16/2022
Effective Date 6/21/2022

Sponsored by: Economic Development, Education & Culture and Finance Committees
Seconded by: Hon. Cindy L. O'Brien

RESOLUTION AUTHORIZING AN AGREEMENT WITH THE TOWN OF WINDSOR FOR FUNDING FROM THE AMERICAN RESCUE PLAN ACT

WHEREAS, Broome County has received funding through the American Rescue Plan Act to address the economic impacts from the COVID-19 pandemic, and

WHEREAS, in March, a devastating fire destroyed the Town of Windsor Highway Department Garage resulting in an almost total loss of the building and vehicles within, and

WHEREAS, Broome County and surrounding municipalities have stepped in to assist the Town of Windsor during these difficult times, and

WHEREAS, the County desires to enter into an agreement with the Town of Windsor for American Rescue Plan Act funding in the amount of \$270,000 which will support the purchase of a new dump/plow truck, now, therefore, be it

RESOLVED, that this County Legislature hereby authorizes an agreement with the Town of Windsor, 124 Main Street, Windsor, New York 13865 for American Rescue Plan Act funding in the amount of \$270,000, and be it

FURTHER RESOLVED, that the County Executive or his duly authorized representative is hereby empowered to execute any such agreements, documents, or papers, approved as to form by the Department of Law, as may be necessary to implement the intent and purpose of this Resolution.

COUNTY OF BROOME) ss:
STATE OF NEW YORK)

I, the undersigned, Deputy Clerk of the Legislature of the County of Broome, DO HEREBY CERTIFY that the above is an original resolution of such Legislature duly adopted on the 16th day of June, 2022, by a majority of the members elected to the Legislature of said County at a regular meeting of said Legislature.

I FURTHER CERTIFY that at the time said resolution was adopted said Legislature was comprised of fifteen members.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Legislature this 17th day of June, 2022.

Date sent to County Executive: June 17, 2022

Approved [Signature]
County Executive

[Signature]
Deputy Clerk, County Legislature
County of Broome

Date 6/11/22, 2022