



DANIEL P. McCOY
County Executive

DEPARTMENT OF HEALTH
COUNTY OF ALBANY
175 GREEN STREET
ALBANY, NEW YORK 12202

MARIBETH MILLER, BSN, MS
Assistant Commissioner for Public Health

PATRICIA J. SNYDER, MBA
Assistant Commissioner for Finance
and Administration

ELIZABETH F. WHALEN, MD, MPH
Commissioner of Health

The Dr. John J.A. Lyons
ALBANY COUNTY HEALTH FACILITY
(518) 447-4580 FAX (518) 447-4698
www.albanycounty.com

June 6, 2016

Michael Franchini, Executive Director
Capital District Transportation Committee
One Park Place
Albany, NY 12205

Dear Mr. Franchini:

Enclosed are two copies of the contract between the Albany County Department of Health and Capital District Transportation Committee, Contract No. 2958. Please sign/notarize both copies and return to me at your convenience. Also, please kindly forward, within fifteen (15) days of this correspondence, any insurance certification as required under this contract (if any).

If you have any questions, please feel free to contact me at (518) 447-4695.

Sincerely,

Marisol Bonilla
Confidential Secretary
Commissioner's Office

Enclosure

Professional Services Agreement
between
THE COUNTY OF ALBANY
AND
THE CAPITAL DISTRICT TRANSPORTATION COMMITTEE

Contract No. 2958 of 2016

This Agreement is made by and between the County of Albany (hereinafter referred to as the "County") a municipal corporation, acting on behalf of the Albany County Department of Health (hereinafter referred to as "Health"), with its principal place of business located at the Albany County Office Building, 112 State Street, Albany New York 12207 and The Capital District Transportation Committee, One Park Place, Albany, New York 12205 (hereinafter known as the "Consultant," Consultant and County each individually may be referred to as the "Party" or together as the "Parties").

WITNESSETH:

WHEREAS, the consultant has heretofore submitted a proposal for professional, transportation, engineering, and planning services for September 1, 2015 to September 28, 2016; and

WHEREAS, the County has accepted the offer of the Consultant for such professional services;

NOW THEREFORE THE PARTIES HERETO DO MUTUALLY COVENANT AND AGREE AS FOLLOWS:

ARTICLE 1: SERVICES TO BE PERFORMED/ SCOPE OF SERVICES

1. To develop and/or implement transportation and community plans that promote walking including professional services, travel, rental of location space and supplies as needed. Activities include, but are not limited to:

- Convene Complete Streets Symposium:

- i. Plan and develop Complete Streets Symposium
 - ii. Coordinate nationally recognized speaker on Complete Streets
 - iii. Reserve Complete Streets Symposium space
 - iv. Moderate and facilitate Complete Streets Symposium
 - v. Conduct community follow-up to Complete Streets Symposium
- Share related resources and model policies.
- In conjunction with deliverables, submit monthly and final reports.
- Paid invoices or receipts are required documentation when vouchering for reimbursement of expense(s).

ARTICLE 2: AVAILABLE DATA

All technical or other data relative to the work shall be shared by the Parties as necessary without expense.

ARTICLE 3. EXTRA WORK

If Consultant is of the opinion that any service it has been directed to perform is beyond the scope of this Agreement and constitutes extra work, Consultant shall promptly notify the County of that opinion. The County shall be the sole judge as to whether or not such work is in fact beyond the scope of this Agreement and whether or not it constitutes extra work. In the event the County determines such work does constitute extra work, it shall provide additional compensation to Consultant on a negotiated basis for work authorized by Health and performed.

ARTICLE 4: COOPERATION

The Parties shall cooperate with each other, their respective employees, agents and officers to the end that the services described here may proceed expeditiously and economically.

ARTICLE 5: FEES

In consideration of the terms and obligations contained in this agreement, the County agrees to pay and the Consultant agrees to accept an amount not to exceed FIFTEEN

THOUSAND AND 00/100 (\$15,000) DOLLARS (US currency) as full compensation for all services rendered under this agreement.

ARTICLE 6: PAYMENT

Payment shall be made after Consultant has submitted an Albany County claim form, approved by Health, detailing services rendered, including dates and type of services, to the Commissioner of Health's designee at the Health Department.

ARTICLE 7: ACCOUNTING RECORDS

Proper and full accounting records shall be maintained by the Consultant. The records shall clearly identify the costs of the work performed. The records shall be subject to periodic and final audit by the County upon reasonable request and shall be accessible to Health for a period of six (6) years following the date of final payment.

ARTICLE 8: ASSIGNMENT

Pursuant to Sec. 109 of the NYS General Municipal Law, Consultant is prohibited from assigning, transferring, conveying, subcontracting, or otherwise disposing of this Agreement, or of Consultant's right, title or interest herein, without prior written consent of Health.

ARTICLE 9: OWNERSHIP OF MATERIALS

All records, forms, reports, statistics and materials created, purchased or maintained by Consultant shall be and remain property of Health, subject to all pertinent confidentiality provisions of law and regulation.

ARTICLE 10: RELATIONSHIP

Consultant is, and shall function as, an independent Consultant under the terms of this Agreement. Consultant shall not be considered an agent or employee of the County of Albany for any purpose. Consultant's employees and agents, if any, shall not in any manner be, or be held out to be, agents or employees of the County.

ARTICLE 11: INDEMNIFICATION

The Parties shall defend, indemnify and save harmless each other, their employees and agents from and against all claims, damages, losses and expenses (including without limitation reasonable attorney's fees) arising out of, or in consequence of, any negligent or intentional act or omission of the indemnifying Party, its employees or agents, to the extent of its or their responsibility for such claims, damages, losses and expenses.

ARTICLE 12: INSURANCE

Consultant shall procure and maintain, without expense to the County, until final acceptance by Health of the services covered under this Agreement, insurance of the kinds and in the amounts provided under Schedule "A" attached hereto and made a part hereof in its entirety. Before commencing any work covered under this Agreement, Consultant shall furnish Health a certificate(s) showing that the requirements of this article are met. The certificate(s) shall provide that the policy shall not be changed or canceled until thirty days prior written notice is received by Health in that regard. The "County of Albany" shall be named as an additional insured on all certificates.

ARTICLE 13: NON-APPROPRIATION

This Agreement is executory only to the extent of the money received by the County of Albany for purposes of this Agreement, if any and no liability on account of this Agreement shall be incurred by Health or the County of Albany beyond the funds available to the County of Albany for such purposes.

Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by or are otherwise unavailable to the County of Albany for payment of this Agreement. Health shall immediately notify Consultant of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to the County of Albany of any kind whatsoever, except as to those portions herein agreed upon for which funds shall have been appropriated and budgeted.

ARTICLE 14: NON-DISCRIMINATION

In accordance with NYS Executive Law, Art. 15 (Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, Consultant and its subconsultants, if any, shall not, by reason of race, creed, color, national origin, age, gender, sexual orientation or disability, discriminate in hiring against any person who is qualified and available to perform work under this Agreement or discriminate against or intimidate any employee hired for the performance of the work contemplated under this Agreement.

ARTICLE 15: CONFIDENTIALITY

Consultant shall maintain the confidentiality of all patient information and any information regarding Health which could be considered confidential or proprietary. This excludes records and information relative to the reporting of patient abuse required by law. Further, to the extent it may be applicable, the Consultant herein agrees to abide by the terms and conditions of Appendix "A" attached hereto and made a part hereof regarding the Healthcare Insurance Portability and Accountability Act of 1996.

ARTICLE 16: TERM AND TERMINATION

The term of this Agreement shall commence on September 1, 2015 and will continue in effect through the close of business on September 29, 2016. Either Party shall have the right at any time to terminate the work under this agreement, without cause, upon thirty (30) days prior written notice of termination. In the event of termination, Consultant shall be entitled to compensation for all services authorized and performed.

ARTICLE 17: INVALID PROVISIONS

If any terms or provisions of this Agreement shall be held, by a court of competent jurisdiction, to be unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms and provisions.

ARTICLE 18: LICENSES

Consultant, its employees and agents, if any, shall at all times obtain and maintain all licenses and certifications required by New York State or other relevant regulating authority to perform the services required under this Agreement, if any.

ARTICLE 19: MODIFICATION

This Agreement may only be modified by a formal written amendment executed by the Parties.

ARTICLE 20: GOVERNING LAW

This Agreement shall be construed for all purposes under the laws of New York State.

ARTICLE 21: NOTICE

All notices and documents required to be given or made pursuant to this Agreement shall be given or made by certified mail/return receipt requested to:

Consultant	County of Albany
Capital District Transportation Committee	Commissioner of Health
One Park Place	Albany County Health Dept.
Albany, New York 12205	175 Green Street
	Albany, New York 12202

ARTICLE 22: AUDITS

The County shall have the right to perform both "pre" and "post" audits of Consultant's records relating to Consultant's billings under this Agreement. Consultant's records shall be available for inspection at such places and times as may be agreed between the Parties. Consultant shall retain all financial records pertaining to this Agreement for a period of six (6) years after Consultant's complete performance.

ARTICLE 23: MACBRIDE PRINCIPLES

Consultant represents that Consultant is in compliance with the MacBride Principles of Fair Employment as set forth in Albany County Local Law No. 3 of 1993, in that Consultant either (a) has no business operations in Northern Ireland or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of compliance with such principles. In the event of a violation of this stipulation, the County of Albany reserves all rights to take remedial measures authorized under Sec. 4 of Local Law No. 3 of 1993, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the Consultant in default and/or seeking debarment or suspension of Consultant.

ARTICLE 24: LABOR UNREST

In accordance with Resolution No. 298 for 1986, Consultant shall not intentionally engage in any course of conduct or activity, or employ for the purposes of performing the public work, any subconsultants, employees, labor or materials which will or may result in the interruption of the performance of the public work due to labor strife or unrest by workers employed by Consultant or by any of the trades working in or about the public works and/or premises where the work is being performed.

ARTICLE 25: REMEDY FOR BREACH

In the event of a breach by Consultant, Consultant shall pay to the County of Albany all direct and consequential damages caused by such breach, including, but not limited to, all sums expended by the County of Albany to procure a substitute Consultant to satisfactorily complete the contract work, together with the County of Albany's costs incurred in procuring a substitute Consultant.

ARTICLE 26: ENTIRE AGREEMENT

This Agreement represents the sole and entire contract between the Parties and shall supersede any and all other agreements. The Parties acknowledge and agree that neither Party has made any representation with respect to the subject matter of this Agreement or any representations inducing the execution and delivery hereof except such representations as are specifically set forth herein and each of the Parties acknowledge that each has relied on its own judgment in entering into this Agreement. The Parties further acknowledge that any prior statements or representations made, if at all, are void and of no effect on this Agreement, and that neither Party has relied on such prior statements or representations in connection with this Agreement.

ARTICLE 27: IRANIAN ENERGY SECTOR DIVESTMENT

Consultant hereby represents that Consultant is in compliance with New York State General Municipal Law Section 103-g entitled "Iranian Energy Sector Divestment," in that Consultant has not:

- (a) Provided goods or services of \$20 Million or more in the energy sector of Iran including but not limited to the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or
- (b) Acted as a financial institution and extended \$20 Million or more in credit to another person for forty-five days or more, if that person's intent was to use the credit to provide goods or services in the energy sector in Iran.

ARTICLE 28: CHANGE IN LEGAL STATUS OR DISSOLUTION

During the term of this Agreement, the Consultant agrees that, in the event of its reorganization or dissolution as a business entity or change in business, the Consultant shall give the County thirty (30) days written notice in advance of such event.

IN WITNESS WHEREOF, the Parties hereto have caused this agreement to be executed set forth below.

COUNTY OF ALBANY

DATED: _____

By: _____

Daniel P. McCoy

County Executive, or

Philip F. Calderone

Deputy County Executive

**CAPITAL DISTRICT TRANSPORTATION
COMMITTEE**

DATED: _____

By: _____

State of New York)

County of Albany) SS.:

On the _____ day of _____, 2016, before me, the undersigned, a notary public in and for the state, personally appeared Daniel P. McCoy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon whose behalf the individual acted, executed the instrument.

Notary Public

State of New York)

County of Albany) SS.:

On the ____ day of _____, 2016, before me, the undersigned, a notary public in and for the state, personally appeared Philip F. Calderone, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity and that by his/her signature on the instrument, the individual, or the person upon whose behalf the individual acted, executed the instrument.

Notary Public

State of New York)

County of Albany) SS.:

On the ____ day of _____, 2016, before me, the undersigned, a notary public in and for the state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the attached instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon whose behalf the individual acted, executed the instrument.

Notary Public

Schedule "A"

Insurance Coverage

The kinds and amounts of insurance to be provided by Consultant are as follows:

A. Workers Compensation and Employer's Liability

A policy or policies providing protection of employees of the obligor in the event of job related injuries. (In lieu of such insurance, certification from the Worker's Compensation Board that such insurance is not required for Consultant's business.)

B. General Liability

A policy including comprehensive form, contractual, premises/completed operations and broad form property insurance with limits of not less than:

Liability	Combined Single Limit
Bodily Injury	\$1,000,000
Property Damage	\$1,000,000
Personal Liability	\$1,000,000

C. Automobile Liability Insurance: A policy or policies of insurance with limits of not less than \$500,000 combined for each accident because of bodily injury, sickness or disease, sustained by any person, caused by accident, and arising out of the ownership, maintenance or use of any automobile for damage because of injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance or use or any automobile.

APPENDIX "A"

OBLIGATIONS AND ACTIVITIES OF THE CONSULTANT AS A BUSINESS ASSOCIATE PURSUANT TO 45 C.F.R. SECTION 164.504

The parties to the Agreement hereby agree to comply with the following provisions, to ensure their compliance with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.

Pursuant to the terms of the Agreement, and in accordance with the requirements of 45 CFR Sections 160 and 164, the CONSULTANT herein, shall be considered a "Business Associate". The following terms are hereby incorporated in this AGREEMENT and shall be binding upon the parties hereto:

A. DEFINITIONS:

1. "Business Associate" – under the terms of this Agreement, the terms "Business Associate" shall mean the Consultant.
2. "Covered Entity" – for purposes of this Agreement, the term "Covered Entity" shall mean the County of Albany, Albany County Department of Health, and any part thereof.
3. "Individual" – under the terms of this Agreement, the term "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. Section 164.501, and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g).
4. "Privacy Rule" – shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.
5. "Protected Health Information" - shall have the same meaning as the term "protected health information" in 45 C.F.R. Section 164.501, limited to the information created or received by the Business Associate from or on behalf of the Covered Entity.
6. "Required by Law" – shall have the same meaning as the term "required by law" in 45 C.F.R. Section 164.501.
7. "Secretary" – shall mean the Secretary of the Department of Health and Human Services or his Designee.

B. OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

1. Pursuant to the terms of the Agreement, the Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement, or as required by law.
2. The Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of the Protected Health Information, other than as provided for by this Agreement.
3. Pursuant to the terms of the Agreement and as more particularly described in the INDEMNIFICATION provisions of the Agreement, the Business Associate hereby agrees, and shall be required to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of Protected

- Health Information by the Business Associate which is in violation of the requirements of the Agreement.
4. The Business Associate shall immediately report to the Covered Entity any use or disclosure of the Protected Health Information not provided for by the Agreement, of which it shall become aware.
 5. The Business Associate agrees to ensure that any agent, including a subConsultant, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information.
 6. Business Associate agrees to provide access, at the request of the Covered Entity, to Protected Health Information in a Designated Record Set, to the Covered Entity or as directed by the Covered Entity, to an Individual, in order to meet the requirements under 45 CFR Section 164.524.
 7. Business Associate agrees to make any necessary amendments to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees pursuant to 45 CFR Section 164.526, at the request of Covered Entity or an Individual, in a timely manner.
 8. Business Associate agrees to make its 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 the Business Associate on behalf of the Covered Entity, available to the Secretary, for purposes of the Secretary determining the Covered Entity's compliance with the Privacy Rule.
 9. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information, in accordance with the requirements of 45 C.F.R. Section 164.528.
 10. Business Associates agrees to provide to the Covered Entity or an Individual, upon request, information which may be collected by the Business Associate during the term of this Agreement, for purposes of permitting the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information, in accordance with the provisions of 45 CFR Section 164.528.

C. PERMITTED USES AND DISCLOSURE

1. General Uses and Disclosure - Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information to perform the functions, activities, or services as defined in this Agreement, provided that such use or disclosure would not violate the Privacy Rule if said disclosure were done by the Covered Entity, or the minimum necessary policies and procedures of the Covered Entity, as well as the applicable provisions of the New York State Mental Hygiene Law.
2. Specific Uses and Disclosure – Except as otherwise limited in this Agreement, the Business Associate may disclose Protected Health Information for the proper management and administration of the services to be provided by the Business Associate in this Agreement, provided that disclosures are Required by Law, or

the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law, or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

3. Except as otherwise limited in this Agreement, the Business Associate may use Protected Health Information to provide information required to the Covered Entity as permitted by 42 CFS Section 164.504 (e)(2)(i)(B).
4. The Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with Section 164.502 (j) (1).
5. Nothing within this section shall be construed as to inhibit the disclosure of information as may be required by the New York State Mental Hygiene Law, Sections 33.13 or 33.16, or other provisions, as may be Required by Law.

D. OBLIGATIONS OF COVERED ENTITY WITH REGARD TO PRIVACY PRACTICES AND RESTRICTIONS

1. The Covered Entity shall notify the Business Associate of any limitations in its notice of privacy practices in accordance with 45 CFR Section 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of Protected Health Information.
2. The Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, to the extent that such changes may affect the Business Associate's use or disclosure of Protected Health Information.
3. The Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Information.

E. PERMISSIBLE REQUESTS BY COVERED ENTITY

1. The Covered Entity shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

F. COVERED ENTITY'S RESPONSIBILITIES UPON TERMINATION

2. The term of this Agreement shall be September 1, 2015 through September 29, 2016. Upon termination of this Agreement, the Covered Entity shall take such necessary precautions to ensure the confidentiality of the Protected Health Information, in accordance with the provisions of 42 CFR Section 164.
3. Termination for Cause – In the event that the Covered Entity becomes aware of a material breach by the Business Associate of the terms of this Appendix, the Covered entity shall have the right, at its sole discretion, to proceed as follows:

- (a) Provide an opportunity to the Business Associate to cure the breach, and end the violation within ten business (10) days. If the Business Associate does not cure the breach and end the violation within ten business (10) days, the Covered Entity shall have the right to immediately terminate the agreement; or,
- (b) Immediately terminate the agreement if the Business Associate has breached a material term of this Appendix, and cure is not possible; or
- (c) If neither termination of the agreement nor cure are feasible, the Covered Entity shall report the violation to the Secretary.

G. EFFECT OF TERMINATION

- 1. Upon termination of the Agreement, the Business Associate shall take all necessary precautions and extend the protections of this Agreement to all Protected Health Information, as if the Agreement were still in force and effect.

H. MISCELLANEOUS

- 1. Regulatory References – A reference in this Agreement to a section in the Privacy Rule or in the Mental Hygiene Law 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 Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.
- 3. Survival – The respective rights and obligations of the Business Associate with regard to this Appendix shall survive the termination of this Agreement.
- 4. Interpretation – Any ambiguity in this Agreement shall be resolved to permit the Covered Entity to comply with the Privacy Rule.
- 5. Incorporation in the Agreement – The terms of this Appendix "A" are hereby incorporated into the Agreement between the parties hereto.

