

AGREEMENT

THIS AGREEMENT is made as of the 9th day of June, 2015, by and between the Town of Pittsford, New York, located at 11 South Main Street, Pittsford, New York 14534 ("Town of Pittsford"), and Ingalls Planning & Design, located at 6 North Main Street, Suite 200G, Fairport, New York 14450 ("Contractor").

WITNESSETH:

WHEREAS, this Agreement is for the provision of professional services to provide assistance in connection with the Pittsford Active Transportation Plan ("Project"); and

WHEREAS, the Town of Pittsford has determined that Contractor possesses the experience and expertise necessary to perform the foregoing services and Contractor desires to provide such services,

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and conditions herein contained, the parties hereto agree as follows:

1. **Scope of Services:** Contractor shall perform the services set forth in Exhibit "A", attached hereto and made a part hereof, in a professional manner that will achieve the objectives identified by the Town of Pittsford.
2. **Time of Completion:** The services to be performed by Contractor shall commence on the date set forth above (the "Commencement Date"), and Contractor agrees that all services shall be completed no later than February 26, 2016 ("Completion Date").
3. **Standard Practices and Requirements:** Contractor shall render all services and furnish all materials necessary to provide the Town of Pittsford with the items and documents required by the Exhibits and this Agreement.
4. **Documents Forming the Agreement:** This Agreement shall consist of this document and the following:

- (a) Exhibit "A" – Scope of Services annexed hereto.
 - (b) Exhibit "D" – Payment Terms annexed hereto.
 - (c) Exhibit "E" – New York State Required Clauses annexed hereto.
 - (d) Exhibit "F" – Federal Required Clauses annexed hereto.
5. **Taxes, Royalties and Expenses:** Contractor shall pay all taxes, royalties and expenses incurred in connection with the services performed under this Agreement except as otherwise provided herein.
6. **Contractor's Compensation:** In consideration for the services to be rendered by Contractor under this Agreement, the Town of Pittsford will pay Contractor as set forth in Exhibit D annexed hereto. In no event, however, shall the amount paid to Contractor under this Agreement exceed an aggregate maximum contract price of Seventy-Four Thousand Nine Hundred and Ninety Seven Dollars and fifty cents (\$74,997.50). Contractor agrees that all services set forth in Exhibit "A" shall be completed for the foregoing compensation.
7. **Final Payment:** Acceptance by Contractor, or any person claiming under it, of the Final Payment made by the Town of Pittsford pursuant to this Agreement shall constitute an acknowledgment by Contractor that it has received payment in full under this Agreement and shall further constitute a release to the Town of Pittsford by Contractor, its successors, its legal representatives and assigns, for all compensation for remuneration for services under this Agreement.
8. **Inspection and Audit:** Contractor shall permit the Town of Pittsford, GTCS, Inc., the Federal Transit Administration, the Federal Highway Administration, and the State of New York to inspect all work, materials, payrolls, invoices and other data and records relating to payments made to Contractor for the Project and to periodically audit the books, records and accounts of Contractor relating to the Project up to three (3) years

following the completion of the contract. The timing of such inspections shall be at the discretion of GTCS, Inc., provided that a good faith attempt shall be made by the Town of Pittsford and GTCS, Inc. to avoid interference with Contractor's work relating to the Project. The obligations of this Section 8 shall survive the termination of this Agreement.

9. **Change in Scope of Services; Additional Work:** Either the Town of Pittsford or Contractor may request changes in the Scope of Services set forth in Exhibit "A" or additional work not specified therein to be performed by Contractor hereunder ("Extra Work"). If the Town of Pittsford and Contractor mutually agree that such Extra Work will be performed and that an increase in compensation is justified, the Town of Pittsford shall provide additional compensation to Contractor on a fair and equitable basis at the amounts mutually agreed upon by the parties, subject to the provisions of this Section 9. Any such change in the Scope of Services or any such Extra Work, as well as any increase or decrease in the amount of compensation to be received by Contractor therefore shall be authorized only by the execution of a written amendment to this Agreement by Contractor and the Town of Pittsford. Commencement of Extra Work shall occur only after such approvals have been obtained from the Town of Pittsford and such written amendment has been executed.
10. **Procedures:** Contractor will issue all drawings and sketches in an electronic form acceptable to the Town of Pittsford. Drawings not in electronic form will not be used on this Project as project drawings. This prohibition does not apply to shop drawings.
11. **Assignments and Subcontracts:** Contractor shall not assign any part of its interest in this Agreement or subcontract any services to be performed hereunder without the prior written consent of the Town of Pittsford. Any such assignments or subcontracting without the consent set forth above shall result in a forfeiture of compensation for any services performed hereunder which are assigned or subcontracted, such amount to be determined by the Town of Pittsford. The foregoing notwithstanding, Contractor may subcontract certain of the services to be performed hereunder to Steinmetz Planning Group and SRF & Associates as specified in Exhibit. The parties acknowledge that the rights under this Agreement will accrue to the benefit of the Town of Pittsford.

12. **Interchange of Data:** All technical data and other materials relating to the Project which are in the possession of either the Town of Pittsford or Contractor shall be made available upon request to the other party without expense to such party.
13. **Meetings and Documentation:** Contractor shall attend all meetings referenced in Exhibit "A" and all such additional meetings as the Town of Pittsford and Contractor mutually agree are necessary for the successful completion of the Project. No request to attend additional meetings shall be unreasonably refused. Contractor shall provide the Town of Pittsford with written reports and documents as specified in the Exhibits.
14. **Budget Line Item Changes:** Contractor may request the reallocation of funds among the various line items in the Project Budget. Such requests shall be submitted in writing to the Supervisor of the Town of Pittsford or his designee (acting on behalf of the Town of Pittsford) for approval, so long as total contract amount does not change.
15. **Independent Contractor Status:**
 - (a) Neither Contractor, in accordance with its status as an independent contractor, nor any of its employees shall be construed to be employees or agents of the Town of Pittsford for any purpose whatsoever. Contractor and its employees agree not to hold themselves out as employees or agents of the Town of Pittsford by reason of their participation under this Agreement.
 - (b) Contractor shall not engage, either on a full-time or a part-time basis during the term of this Agreement, any professional or technical personnel who are or have been at any time during the term of this Agreement in the employ of the Town of Pittsford, except regularly retired employees, without the consent of the Town of Pittsford.
16. **Insurance Requirements:**
 - (a) Prior to commencing work, Consultant shall provide, at its own cost and expense, the following insurance with insurance companies duly licensed, possessing a current A.M. Best, Inc. Rating of A - or better, and reasonably acceptable to the

Town of Pittsford, to be evidenced by certificates or formal endorsements. These certificates shall serve as evidence that policies providing the required coverage, conditions, and limits required by this contract are in full force and effect. In no way should the Consultant construe these minimum required limits to be their limit of liability to the Town of Pittsford.

- (b) Each certificate shall require that, at least thirty (30) days prior to the cancellation of or a material change in such policy, written notice thereof shall be given to the Town of Pittsford for all of the following stated insurance policies. *All such notices shall name the Contractor, identify this Agreement, and list the Town of Pittsford as an "Additional Insured."* However, there will be no requirement to list the Town of Pittsford as an additional insured in relation to Workers' Compensation, Employer's Liability and Professional Liability Policies. Said insurance must cover all operations under this Agreement whether performed by Consultant or its sub-contractors.
- (c) All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of the Town of Pittsford, constitute a material breach of this contract.
- (d) All insurance required by this contract shall be written on an occurrence basis, as opposed to a claims-made basis.
- (e) The Consultant shall be solely responsible for the deductible and/or self-insured retention and the Town of Pittsford may, at its option, require the Consultant to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
- (f) The Town of Pittsford reserves the right to request and to receive, within ten (10) working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The Town of Pittsford shall not be obligated, however, to review such policies and/or endorsements or to advise Consultant of any deficiencies in such policies and endorsements, and such receipt shall not

relieve Consultant from, or be deemed a waiver of the Town of Pittsford's right to insist on strict fulfillment of Contractor's obligations under this Contract.

- (g) The insurance policies required hereunder, except Workers' Compensation, Employer's Liability and Professional Liability shall name the Town of Pittsford, its agents, representatives, officers, directors, officials, commissioners, and employees as Additional Insureds. The proper name is: the Town of Pittsford, New York and all agents, representatives, officers, directors, officials, commissioners, and employees of such.
- (h) The insurance policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against the Town of Pittsford, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.
- (i) Prior to commencing work or services under this contract, said certificates shall be delivered to:

Paul Schenkel
Commissioner of Public Works
Town of Pittsford
11 South Main Street
Pittsford, NY 14534

- (1) **Workers' Compensation:** Statutory coverage, in compliance with the Compensation Law of the State of New York. The Consultant shall also carry Worker's Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services, as well as Employer's Liability insurance of not less than \$1,000,000 for each accident; \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.
- (2) **Comprehensive Commercial General Liability:** Consultant will provide the following minimum Limits of Liability for bodily injury and property damage:
 - A. \$1,000,000 Each Occurrence;
 - B. \$1,000,000 Personal and Advertising Injury;
 - C. \$2,000,000 General Aggregate; and
 - D. \$2,000,000 Products/Completed Operations Aggregate.

These limits shall provide coverage for:

| | |
|-------------------------|-----------------------------------|
| {X} Premises/Operations | {X} Products/Completed Operations |
| {X} Personal Injury | {X} Additional Insured* |

The Town of Pittsford shall be named as an "Additional Insured" on this policy. The proper name is: the Town of Pittsford, New York, its officers, employees and agents.

- (3) **Professional Liability Insurance** \$1,000,000
- (4) **Disability Benefits**: Consultant shall provide proof of compliance with the Disability Benefits Law.

Location of operation shall be "all locations served by the Town of Pittsford."

- (5) If automobiles are to be used in the performance of any work under this Agreement, **Automobile Liability Insurance** with the following minimum limits of liability per occurrence:
 - A. \$1,000,000 for bodily injury, and
 - B. \$1,000,000 for property damage, unless otherwise indicated in a "Special Conditions" of the contract specifications.

This insurance shall include for bodily injury and property:

- A. Owned automobiles;
- B. Hired automobiles; and
- C. Non-owned automobiles.

- (j) All policies and certificates of insurance shall be approved by the Town of Pittsford prior to the inception of any work.
- (k) Upon failure of the Consultant to furnish, deliver and maintain such insurance as above provided, this Agreement, at the election of the Town of Pittsford, may be forthwith declared suspended, discontinued or terminated upon ten (10) days written notice. Failure of the Consultant to take out and/or maintain, or the taking out and/or maintenance of any required insurance, shall not relieve the Consultant from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Consultant concerning indemnification.
- (l) In the event that claims in excess of the insured amounts provided herein are

filed by reason of any operations under this Agreement, the excess amount of such claims, or any portion thereof, may be withheld from payment due or to become due the Consultant until such time as the Consultant shall furnish such additional security covering such claims as may be determined by the Town of Pittsford.

(m) Consultant also agrees that:

- (i) Insurers shall have no right of recovery or subrogation against the Town of Pittsford (including its agents and agencies as aforesaid), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance;
- (ii) The insurance companies issuing the policy or policies shall have no recourse against the Town of Pittsford (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form or policy; and
- (iii) Any and all deductibles in the above-described insurance policies shall be assumed by, for the account of, and at the sole risk of the Contractor.

17. **Indemnification Clause:** In addition to the insurance required to be procured and maintained pursuant to Section 16, Contractor agrees to indemnify the Town of Pittsford against and to hold the Town of Pittsford harmless from suits, actions, damages and costs including, without limitation, court costs and reasonable attorney fees, to the extent caused by the negligent, grossly negligent or willful act or failure to act of Contractor and Contractor's subcontractors under this Agreement including, without limitation, Contractor's failure to meet reasonable professional standards.

18. **Assistance with Claims:** In the event any claim is made or any action brought in any way relating to the design or construction of the Project, Contractor shall diligently render to the Town of Pittsford any or all architectural and engineering assistance which the Town of Pittsford may require of Contractor, including, but not limited to, the making of analyses and reports except where Contractor is or may be a party to the claim. If the claim is not for one for which indemnification is owed under Section 17, Contractor shall render the first four (4) hours of such assistance for no additional

consideration and the Town of Pittsford shall compensate Contractor for assistance in excess of such four hours at an hourly rate mutually agreed upon by the parties.

19. **Code of Ethics:** Contractor agrees that this Agreement may be terminated if any work under this Agreement is in conflict with the provisions of Section 74 of the New York State Public Officers' Law, which establishes a Code of Ethics for New York State officers and employees.
20. **Disposition of Plans and Other Data:** Contractor shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of Final Payment under this Agreement, for inspection by authorized representatives of the Town of Pittsford, and GTCS, Inc. and copies thereof shall be furnished if requested, respectively, at the Town of Pittsford or GTCS, Inc.'s expense.
21. **Delays:** Contractor agrees that no charges or claim for damages shall be made by it for any delays or hindrances from any cause during the progress of any portion of the services specified in this Agreement. Such delays or hindrances, if any, shall be compensated for by an extension of time for such "reasonable period" as the Town of Pittsford may decide acting reasonably, it being understood, however, that the permitting of Contractor to proceed to complete any service or any part of them after the Completion Date or after the date to which the Completion Date may have been extended, shall in no way operate as a waiver on the part of the Town of Pittsford of any of its rights hereunder. For purposes of this section only, the term "reasonable period" shall not exceed six (6) months from the originally-scheduled Completion Date of the Project, except where the delay is as the result of the action or inaction of the Town of Pittsford.
22. **Termination:**
 - (a) Upon written notice to Contractor, the Town of Pittsford shall have the right to terminate this Agreement at any time during the term hereof, with or without

cause. Upon fifteen (15) days written notice to the Town of Pittsford, Contractor shall have the right to terminate this Agreement for any material breach by the Town of Pittsford that is not cured by the Town of Pittsford during such fifteen-day period. In the event of a termination hereunder, the Town of Pittsford shall reimburse Contractor on an equitable basis, for all services performed by Contractor prior to the date of such termination considering the following factors.

- (i) The ratio of work performed by Contractor prior to the termination of this Agreement to the total amount of work contemplated hereunder, less any payments made prior to such termination.
 - (ii) The amount of the actual costs and expenses which Contractor incurred in performing the work prior to the termination of this Agreement in proportion to the total costs and expenses which total amount of work contemplated hereunder, less any payments made prior to such termination, provided that if this Agreement is terminated as a result of Contractor's unsatisfactory performance hereunder, the factor set forth in this subdivision 22.(a)(ii) shall not be considered by the Town of Pittsford.
 - (iii) The actual costs incurred by Contractor, as verified by audit.
- (b) In the event of a termination hereunder, Contractor shall cancel all outstanding commitments hereunder, including without limitation personal services and the procurement of materials, supplies and equipment. In addition, Contractor shall incur no new commitments of any nature whatsoever with respect to this Agreement.

23. **Default:** The following shall be events of default under this Agreement:

- (a) Failure without lawful excuse by Consultant to perform in a timely and satisfactory manner any or all of its obligations under this Agreement. However, the Town of Pittsford recognizes that Contractor's performance must be

governed by sound professional practices.

- (b) Any material representation or warranty made by Consultant in its bid response or this Agreement proves to have been false or misleading in any respect;
- (c) Failure without lawful excuse by Consultant to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement, unless the Town of Pittsford shall agree in writing to an extension of such time to perform prior to its expiration; or
- (d) In the event of such failure or default as set forth in clause (a) (b) or (c) above, the Town of Pittsford shall provide written notice to Consultant of such default, together with a direction to cure the same. The Consultant covenants and agrees to make the necessary cure within seventy-two (72) hours of the receipt of such written notice from the Town of Pittsford. Such notice will be delivered in accordance with Section 27 hereof.

24. **Covenant Against Contingent Fees:** Contractor warrants that it has not employed or retained any company or person other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Town of Pittsford shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the compensation to be paid Contractor hereunder, or otherwise recover the full amount of percentage, brokerage fee, gift or contingent fee.

25. **Ownership and Use of Construction Documents:** The Town of Pittsford acknowledges Contractor's construction documents as instruments of professional services. Nevertheless, the plans, specifications and other documents prepared under this Agreement shall become the property of the Town of Pittsford upon completion of the work and payment in full of all monies due to Contractor. The Town of Pittsford shall not reuse or make any modification to the plans and specifications without the prior written authorization of Contractor. Reuse or modification of the plans and

specifications without such authorization will be at the Town of Pittsford's sole risk.

26. **Notices:** Any notice or demand upon the Town of Pittsford or Contractor shall be deemed to be sufficient for all purposes hereunder if given personally or mailed to the other party hereto at such party's address as set forth above or to such other address as may be furnished in writing by such party. Any notice that is mailed shall be effective when deposited in the United States mail, duly addressed and with first class postage affixed.
27. **Conflicting Provisions:** The various documents that comprise this Agreement shall prevail in accordance with the precedence established below in the event of any inconsistencies among them:
1. Agreement
 2. Request for Proposals
 3. All Other Appendices
 4. Consultant Proposal Forms

Further, should the Successful Proposer's bid be incorporated by reference herein following contract award, such proposal shall have the least precedence amongst the documents in resolving any inconsistencies contained in them.

28. **Laws and Regulations:** Contractor shall comply with all applicable federal, state and local laws and regulations including, without limitation, those relating to wages, hours, fair employment practices, equal opportunity, anti-discrimination, safety and working conditions. It is understood, however, that various codes and regulations, including without limitation the ADA and FHA, are subject to varying and sometimes contradictory interpretation. Contractor shall exercise its professional skill and care consistent with the generally accepted standard of care to provide a design that complies with such regulations and codes. Contractor cannot warrant that all documents issued by it shall comply with said regulations and codes.
29. **Qualifications and Licenses:** Consultant represents and warrants to the Town of

Pittsford that it and its employees are duly and fully qualified under the laws of the state of its incorporation and of the State of New York, to undertake the activities and obligations set forth in this Agreement, that it possesses as of the date of its execution of this Agreement, and it will maintain throughout the term hereof, all necessary approvals, consents and licenses from all applicable government agencies and authority and that it has taken and secured all necessary board of directors and shareholders action and approval.

30. **Miscellaneous:**

- (a) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
- (b) The captions to the sections of this Agreement are solely for the convenience of the parties and are not an aid in the interpretation of this Agreement.
- (c) This Agreement and its attachments constitute the entire understanding between the Town of Pittsford and Contractor and supersede all prior agreements and understandings relating to the subject matter hereof.
- (d) This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York.
- (e) This Agreement may be executed in two or more counterparts, all of which together shall constitute one and the same instrument.
- (f) Both parties hereto warrant and represent that they have full right, power and authority to execute this Contract.
- (g) This Agreement is subject to GTCS, Inc. Procurement Policies, including but not limited to legal review and audit.

31. **Protection of Trade Secrets:** Many of the Town of Pittsford's records are subject to

disclosure to the public following the filing with the Town of Pittsford of appropriate requests. Trade Secrets can be excepted from disclosure under the New York Freedom of Information Law, but will only be excepted by the Town of Pittsford if Contractor identifies in writing the records or parts of records considered to be trade secrets when those records are submitted to the Town of Pittsford giving the reasons for the need for the exception from disclosure, and specifically requesting that such information be held confidentially. Contractor shall stamp all such documents as "Confidential" and identify them as such in a transmittal letter. Without such identification and designation, such records may be subject to disclosure by the Town of Pittsford without liability to Contractor.

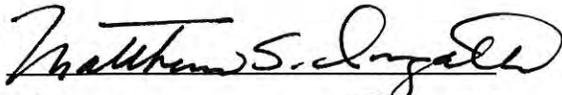
32. **Payment Terms:** The Town of Pittsford reserves the right not to pay a properly submitted invoice until 30 days after it (the Town of Pittsford) has received said invoice.

IN WITNESS WHEREOF, the respective parties have caused this Contract to be executed by their duly authorized representatives and their seals, if any, to be affixed hereto the day and year first above written.

Ingalls Planning & Design

Town of Pittsford, New York

By:


Matthew S. Ingalls

(Print name)

Title:

principal

By:


William A. Smith, Jr.

Title: Town Supervisor

EXHIBIT A

TO AGREEMENT BETWEEN
TOWN OF PITTSFORD, NEW YORK
AND
INGALLS PLANNING & DESIGN

DATED: _____

SCOPE OF SERVICES

Pittsford Active Transportation Plan

SCOPE OF SERVICES

A. Tasks

1. Study Coordination

The Consultant Team will coordinate all project activities with the Project Manager. A project Steering Committee consisting of representatives of the Study Participants identified in Section D will be convened and meet as necessary to guide this Study. The Steering Committee will include two subcommittees (Town and Village) to provide the consultant with jurisdiction-specific guidance as needed.

- a. Conduct up to four Steering Committee meetings
- b. Conduct up to four subcommittee meetings
- c. Conduct bus tour with Steering Committee to visit key locations within the Town and/or Village using a Town or school district bus
- d. Establish an online collaborative map accessible by the community to collect data including issues, opportunities, local destinations, etc. or
- e. Establish an online community active transportation survey (choice between "d" and "e" to be determined by the Steering Committee)

2. Inventory of Existing & Planned Conditions

To support the analysis and decision-making necessary to advance the Study, the Consultant Team will conduct an inventory of existing and planned conditions relevant to the study purpose that will at a minimum include the following:

- a. Roadway traffic volumes and capacity.
- b. A discussion of bicyclist and pedestrian safety issues, including crashes.
- c. Consideration of opportunities and practical limits for bicycle commuting.
- d. Roadway suitability for pedestrians, bicyclists, and transit use.
- e. Priority destinations including but not limited to schools, employment centers, parks, retail centers, community centers, other important destinations and trip generators.
- f. Existing, proposed, and under development trails and sidewalks.
- g. Regulations affecting active transportation.
- h. Document current bicycle and pedestrian planning efforts of adjoining communities.
- i. Bicycle level of service evaluation (utilizing GIS-based Average Annual Daily Traffic and existing roadway conditions data).

- j. Other key information as necessary, including relevant anecdotal information, which may materially benefit study decision-making.

3. Needs Assessment

To support the analysis and decision-making necessary to advance the Study, the Consultant Team will develop a detailed and comprehensive needs assessment. To that end, the Consultant Team will solicit public input on issues and opportunities including but not limited to:

- a. Develop vision, goals, and objectives (in collaboration with the Steering Committee).
- b. Conduct a Gap Analysis (using GIS mapping, the Team will identify gaps in the sidewalk, bicycle, and trail network and missing links to adjoining communities and town destinations.
- c. Connectivity to the priority destinations and routes identified in Task 2.e., above.
- d. Bicyclist and pedestrian safety (real and perceived) in the study area.
- e. Bicycle commuting opportunities in the study area.
- f. Condition of trails, sidewalks, and on-street bicycle accommodations within the study area.
- g. Opportunities for new facilities, programs, and other activities to promote and increase active transportation.
- h. In conjunction with this and the preceding task, the Consultant Team will conduct a Public Meeting (Workshop) to solicit input on issues and needs relating to the Project and to identify other key information as necessary related to the bicycle and pedestrian network. The meeting format and logistics will be determined by the Steering Committee following discussion with the Consultant Team and it is anticipated that a hybrid approach combining an informational meeting and an open house format will be considered.

4. Develop Draft Plan Including Alternative Recommendations

Pursuant to the information developed in Tasks 2 and 3 above, and the study purpose, the Consultant Team will develop a draft Plan to include, at a minimum, the following:

- a. A discussion of recommended alternatives, including generalized cost estimates for each.
- b. Recommendations addressing subjects including, but not limited to:
 - Increased safety for bicyclists and pedestrians travelling along major village, town, county, and state highways in the study area;

- Increased safety and security for pedestrians and bicyclists in high use zones, including major intersections and activity centers;
 - Increased safety for bicyclists commuting to and from work;
 - Increased mobility choices available as alternatives to automobiles; and
 - Improved coordination between land use decision making and transportation objectives so that land use decisions support and promote active transportation.
- c. For those recommendations that may reduce roadway capacity (e.g., “road diets”) the consultant’s analysis of the recommendation’s effects on roadway performance including through affected intersections, must be included.
 - d. An assessment of Town and Village code language and other regulatory measures with recommendations to facilitate and coordinate land use decisions and related transportation reviews.
 - e. The identification of environmental considerations and benefits associated with creating an integrated transportation system include a discussion of “green energy” principles associated with pedestrian, bicycles, and mass transit services.
 - f. The identification of site design features that support multimodal use (i.e., bicycle, pedestrian, and transit use) along with code language and/or incentives that could be provided to developers to encourage the including of these features.
 - g. An initial prioritization of the draft recommendations using a matrix or other analytical tool, into short, mid-, and long-term or low, medium- and high-priority for implementation.
 - h. Existing proposed (in existing plans) and newly proposed (included in this plan) sidewalks in the Town will be evaluated and further prioritized based on GIS analysis. Heat maps will be developed that identify and prioritize critical gaps in the pedestrian network.
 - i. As needed, design guidelines, policy, code and program recommendations pertinent to the advancement of the project recommendations.
 - j. Identify the follow-on activities necessary to advance the recommendations of the planning study including any potential funding sources.
 - k. In conjunction with this Task, the Consultant Team will conduct a Public Meeting to solicit input on the draft Plan content. Following the Public Meeting the Consultant Team will revise the report as needed to address public comments and provide the draft for review by the project steering committee and other appropriate officials.

5. Produce Final Report

Based on input received from the Steering Committee, the Consultant Team will make the appropriate revisions and produce the Final Report and its associated Executive Summary.

Products

1. Twelve (12) copies of Draft Final Report.
2. Twelve (12) copies of Final Report.
3. Twenty (20) copies of a Final Executive Summary.
4. One (1) copy each of Final Report and Executive Summary in electronic (PDF and MS Word) formats.
5. GIS layers and associated databases.

Project Schedule

The approximate key milestones for accomplishing the Project are:

| <u>Task*</u> | <u>Expected Completion</u> |
|--|----------------------------|
| 1. Project Kickoff and Steering Committee Meeting #1 | February 2015 |
| 2. Inventory of Existing and Planned Conditions | May 2015 |
| 3. Needs Assessment and Public Workshop #1 | June 2015 |
| 4. Draft Report and Public Workshop #2 | August 2015 |
| 5. Final Plan & Executive Summary | November 2015 |

*Tasks Identified Per Payment Terms, Below.

EXHIBIT D

TO AGREEMENT BETWEEN
TOWN OF PITTSFORD, NEW YORK
AND
INGALLS PLANNING & DESIGN

DATED: _____

PAYMENT TERMS

Pittsford Active Transportation Plan

PAYMENT TERMS

Pittsford Active Transportation Plan

| <u>Task</u> | <u>Description</u> | <u>Cost</u> |
|---|--|---------------------------|
| 1. | Study Coordination (meetings, survey, etc.) | \$15,327.50 |
| 2. | Inventory of Existing and Planned Conditions | \$14,000.00 |
| 3. | Needs Assessment | \$10,390.00 |
| 4. | Develop Draft Plan including Alternative Recommendations | \$28,210.00 |
| 5. | Produce Final Report | \$3,770.00 |
| <u>Subtotal, not to exceed</u> | | <u>\$71,697.50</u> |
| Reimbursable and Direct Expenses* NOT TO EXCEED | | \$3,300.00 |
| <u>TOTAL, NOT TO EXCEED</u> | | <u>\$74,997.50</u> |

* Including Transportation, Communication/Postage, Printing/Reproduction/Supplies, Meeting Materials, etc.

Invoices will be prepared no more frequently than monthly for work completed and submitted in the format provided by the Town of Pittsford. Proper documentation of Reimbursable and Direct Expenses (e.g., itemized receipts for meals, lodging, mileage logs, printing, etc.) must be submitted with the Invoice.

EXHIBIT E

TO AGREEMENT BETWEEN
TOWN OF PITTSFORD, NEW YORK
AND
INGALLS PLANNING & DESIGN

DATED: _____

NEW YORK STATE REQUIRED CLAUSES

Pittsford Active Transportation Plan

EXECUTORY CLAUSE

In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

NON-ASSIGNMENT CLAUSE

In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

COMPTROLLER'S APPROVAL

In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

WORKERS' COMPENSATION BENEFITS

In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

NON-DISCRIMINATION REQUIREMENTS

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for

any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

WAGE AND HOURS PROVISIONS

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

NON-COLLUSIVE BIDDING CERTIFICATION

In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

INTERNATIONAL BOYCOTT PROHIBITION

In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

SET-OFF RIGHTS

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

RECORDS

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter.

The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN

In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will

undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

CONFLICTING TERMS

In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

GOVERNING LAW

This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

LATE PAYMENT

Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

NO ARBITRATION

Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

SERVICE OF PROCESS

In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of

each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS

The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

MACBRIDE FAIR EMPLOYMENT PRINCIPLES (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS)

(Non-Federal Aid New York State Contracts) In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor 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 Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

OMNIBUS PROCUREMENT ACT OF 1992 (APPLICABLE ONLY IN Non-Federal Aid New York State Contracts)

(Non-Federal Aid New York State Contracts). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
Email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
Telephone: 212-803-2414

Email: mwbecertification@esd.ny.gov
<http://esd.ny.gov/MWBE/directorySearch.html>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

RECIPROCITY AND SANCTIONS PROVISIONS (APPLICABLE ONLY IN Non-Federal Aid New York State Contracts)

Non-Federal Aid New York State Contracts). Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

COMPLIANCE WITH CONSULTANT DISCLOSURE LAW

If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

PROCUREMENT LOBBYING

To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

APPENDIX A-1: SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)

Compliance with Regulations:

The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

Nondiscrimination:

The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

Solicitations for Subcontractors, Including Procurements of Materials and Equipment:

In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.

Information and Reports:

The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance:

In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

- (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
- (b.) cancellation, termination or suspension of the contract, in whole or in part.

Incorporation of Provisions:

The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The contractor shall take such action with respect to any subcontract or procurement as NYSDOT or the FHWA may

direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

EXHIBIT F

TO AGREEMENT BETWEEN
TOWN OF PITTSFORD, NEW YORK
AND
INGALLS PLANNING & DESIGN

DATED: _____

FEDERAL REQUIRED CLAUSES

Pittsford Active Transportation Plan

Fly America Requirements

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

Energy Conservation

All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

Access to Records and Reports

Applicability – As shown below. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of

USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

FTA does not require the inclusion of these requirements in subcontracts.

Federal Changes

All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

No Government Obligation to Third Parties

Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts

Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Termination

Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$100,000

- a. **Termination for Convenience (General Provision)** the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

- b. **Termination for Default [Breach or Cause] (General Provision)** If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

- c. **Opportunity to Cure (General Provision)** the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

- d. **Waiver of Remedies for any Breach** In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

- e. **Termination for Convenience (Professional or Transit Service Contracts)** the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

- f. **Termination for Default (Supplies and Service)** If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this

contract.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work.

Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates,

summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

Government Wide Debarment and Suspension (Non Procurement)

Applicability – Contracts over \$25,000

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractors, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the recipient. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Contracts Involving Federal Privacy Act Requirements

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the

Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

Civil Rights Requirements

All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing.

Specifically:

a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute): (1) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, or (g) Age, and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity,

b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,

c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, and (3) Equal Employment

Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: (1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.,

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for

discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,

h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,

i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005,

j. Environmental Justice. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance, and

k. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.

l. Contractor shall include these requirements in each subcontract financed in whole or in part with FTA assistance, modified only if necessary to identify the affected parties.

Patent and Rights in Data

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK (\$3,000 or less, except for construction contracts over \$2,000).

Patent Rights

A. General. The Recipient agrees that:

(1) Depending on the nature of the Project, the Federal Government may acquire patent rights when the Recipient or Third Party Participant produces a patented or patentable: (a) Invention, (b) Improvement, or (c) Discovery, (2) The Federal Government's rights arise when the patent or patentable information is: (a) Conceived under the Project, or (b) Reduced to practice under the Project, and (3) When a patent is issued or patented information becomes available as described in Patent Rights section A(2), the Recipient agrees to: (a) Notify FTA immediately, and (b) Provide a detailed report satisfactory to FTA,

B. Federal Rights. The Recipient agrees that:

(1) Its rights and responsibilities, and the rights and responsibilities of each Third Party Participant, in that federally funded invention, improvement, or discovery will be determined as provided by applicable Federal laws, regulations, and guidance, including any waiver thereof, and (2) Unless the Federal Government determines otherwise in writing, irrespective of the Recipient's status or the status of any Third Party Participant as a large business, a small business, a State government, a State instrumentality, a local government, an Indian tribe, a nonprofit organization, an institution of higher education, or an individual, the Recipient agrees to transmit the Federal Government's patent rights to FTA as specified in: (a) 35 U.S.C. § 200 et seq., and (b) U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. part 401, and

C. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19:

(1) License fees and royalties for patents, patent applications, and inventions derived from the Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing.

Rights in Data and Copyrights

A. Definition of "Subject Data." means recorded information: (1) Copyright. Whether or not copyrighted, and (2) Delivery. That is delivered or specified to be delivered under the Underlying Agreement,

B. Examples of "Subject Data." Examples of "subject data": (1) Include, but are not limited to:

(a) Computer software, (b) Standards, (c) Specifications, (d) Engineering drawings and associated lists, (e) Process sheets, (f) Manuals, (g) Technical reports, (h) Catalog item identifications, and (i) Related information, but (2) Do not include: (a) Financial reports, (b) Cost analyses, or (c) Other similar information used for Project administration,

C. General Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Recipient's Project supported by the Underlying Agreement: (1) Prohibitions. The Recipient may not: (a) Publish or reproduce any subject data in whole or in part, or in any manner or form, or (b) Permit others to do so, but (2) Exceptions. The prohibitions of Rights in Data and Copyrights C(1) do not apply to: (a) Publications or reproductions

for the Recipient's own internal use, (b) An institution of higher learning, (c) The portion of subject data that the Federal Government has previously released or approved for release to the public, or (d) The portion of data that has the Federal Government's prior written consent for release,

D. Federal Rights in Data and Copyrights. The Recipient agrees that: (1) License Rights. The Recipient must provide a license to its "subject data" to the Federal Government, which license is: (a) Royalty-free, (b) Non-exclusive, and (c) Irrevocable, (2) Uses. The Federal Government's license must permit the Federal Government to take the following actions provided those actions are taken for Federal Government purposes: (a) Reproduce the subject data, (b) Publish the subject data, (c) Otherwise use the subject data, and (d) Permit other entities or individuals to use the subject data, and

E. Special Federal Rights in Data for Research, Development, Demonstration, Deployment, and Special Studies Projects. In general, FTA's purpose in providing Federal funds for a research, development, demonstration, deployment, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to the Recipient and its Third Party Participants, therefore, the Recipient agrees that: (1) Publicly Available Report. When the Project is completed, it must provide a Project report that FTA may publish or make available for publication on the Internet, (2) Other Reports. It must provide other reports pertaining to the Project that FTA may request, (3) Availability of Subject Data. FTA may make available to any FTA Recipient or any of its Third Party Participants at any tier of the Project, either FTA's copyright license to the subject data or a copy of the subject data, except as the Federal Government determines otherwise in writing, (4) Identification of Information. It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA, (5) Incomplete Project. If the Project is not completed for any reason whatsoever, all data developed under the Project becomes "subject data" and must be delivered as the Federal Government may direct, but (6) Exception. Rights in Data and Copyrights Section E does not apply to an adaptation of automatic data processing equipment or program that is both: (a) For the Recipient's use, and (b) Acquired with FTA capital program funding,

F. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for copyrighted material or trademarks derived from Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing,

G. Hold Harmless. Upon request by the Federal Government, the Recipient agrees that: (1) Violation by Recipient. (a) If it willfully or intentionally violates any: 1 Proprietary rights, 2 Copyrights, or 3 Right of privacy, and (b) Its violation occurs from any of the following uses of Project data: 1 Publication, 2 Translation, 3 Reproduction, 4 Delivery, 5 Use, or 6 Disposition, then (c) It will indemnify, save, and hold harmless against any liability, including costs and expenses of: 1 The Federal Government's officers acting within the scope of their official duties, 2 The Federal Government's employees acting within the scope of their official duties, and 3 Federal Government's agents acting within the scope of their official duties, but (2) Exceptions. The Recipient will not be required to indemnify the Federal Government for any liability described in Rights in Data and Copyrights section G(1) if: (a) Violation by Federal Officers, Employees or Agents. The violation is caused by the wrongful acts of Federal employees or agents, or (b) State law. If indemnification is prohibited or limited by applicable State law,

H. Restrictions on Access to Patent Rights. Nothing in this Rights in Data and Copyrights section pertaining to rights in data either: (1) Implies a license to the Federal Government under any patent, or (2) May be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent,

I. Data Developed Without Federal Funding or Support. The Recipient understands and agrees that in certain

circumstances it may need to provide data developed without any Federal funding or support to FTA. Nevertheless: (1) Protections. Rights in Data and Copyrights Sections A, B, C, and D generally do not apply to data developed without Federal funding, even though that data may have been used in connection with the Project, and (2) Identification of Information. The Recipient understands and agrees that the Federal Government will not be able to protect data developed without Federal funding from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential," and

J. Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to release Project data and information the Recipient submits to the Federal Government as required by: (1) The Freedom of Information Act, 5 U.S.C. § 552, (2) Another applicable Federal law requiring access to Project records, (3) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," specifically 49 C.F.R. § 19.36(d), or (4) Other applicable Federal regulations and guidance pertaining to access to Project records.

Disadvantaged Business Enterprise

Contracts over \$3,000 awarded on the basis of a bid or proposal offering to use DBEs

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. If a separate contract goal has been established, Bidders/offers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE

subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

Incorporation of Federal Transit Administration (FTA) Terms

All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

Other Federal Requirements

The following requirements are not federal clauses.

Full and Open Competition

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

Prohibition Against Exclusionary or Discriminatory Specifications

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

Conformance with ITS National Architecture

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 etseq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

Notification of Federal Participation

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

Interest of Members or Delegates to Congress

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

Ineligible Contractors and Subcontractors

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

Other Contract Requirements

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

Compliance with Federal Regulations

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Real Property

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 29 CFR 18.31, 49 CFR 24 Subpart B, FTA Circular 5010.1D, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Access to Services for Persons with Limited English Proficiency

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

Environmental Justice

The Recipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

Environmental Protections

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

Geographic Information and Related Spatial Data

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only

Non Federal entities that expend \$500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, Audits of States, Local Governments, and Non Profit Organizations. Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than \$500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in '3052.215(a), but records must be available for review or audit by appropriate officials of the Federal and State agencies.

Catalog of Federal Domestic Assistance (CFDA) Identification Number

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

CFDA number for the Federal Transportation Administration

A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.