REQUEST FOR PROPOSAL
RFP-WQIP01-17

To: To Whom it May Concern

From: Randall Perry, Project Manager
Chautauqua Lake & Watershed
Management Alliance on behalf of
Chautauqua County Department of Planning
& Economic Development

Issue Date: January 13, 2017

Subject: Request for Proposal for Professional Services for Streambank Stabilization Design, Permitting, and Construction Management on Dutch Hollow Creek, Ellery, NY

Term: January 1, 2017 through December 31, 2018.

Enclosed is a Chautauqua County Request for Proposal (RFP) seeking the above referenced goods and/or services. The County is seeking a qualified business or individual to provide high quality results.

Please review the attached materials and respond in accordance with the instructions in the RFP. If you have technical questions relating to the scope of services or questions relating to the RFP process, please contact rperry@chautauquaalliance.org.

A non-mandatory pre-proposal meeting will be held on Thursday, January 26, 2017 at 1 PM at 3118 Dutch Hollow Road, Ellery, NY.

Sealed proposals must be received by Friday, February 24, 2017, no later than 3:30 P.M. ET, at the address below. Please submit three (3) hard-copies and one (1) CD containing an electronic copy of your proposal. Sealed proposals shall be submitted to the Chautauqua Lake & Watershed Management Alliance (Alliance) Project Manager located at 201 West 3rd Street, Suite 115, Jamestown, NY 14701. Late proposals will not be accepted.

Thank you for your anticipated interest in this RFP. If it is not your intention to submit a proposal, please notify us by emailing rperry@chautauquaalliance.org before the proposal close date.
1. INTRODUCTION AND INSTRUCTIONS

a) RFP - The services that are required herein are not subject to formal competitive bidding under Section 103 of New York State General Municipal Law. Chautauqua County Purchasing Policy rules in this case require selection of a contractor through a Request for Proposal process.

b) Chautauqua County encourages all qualified applicants, including Minority-owned Business Enterprises, Women-owned Business Enterprises, Small business Enterprises and Disadvantaged Business Enterprises, to partake in the solicitation of these and all other services. The successful proposer must be an Equal Opportunity Employer.

c) Chautauqua County is exempt from all Federal and State taxes.

d) Insurance must be in place prior to execution of the agreement and shall be up to date and maintained for the contract term. Please attach your updated certificates of insurance along with your proposal. You may also e-mail certificates to rperry@chautauquaalliance.org or fax to 716-661-8145. Failure to supply up-to-date certificates of insurance may be cause for the County to declare a proposal non-responsive, with the result that the award may go to the next highest scoring proposal.

e) A copy of the Chautauqua County Minimum Insurance Requirements is attached along with a sample copy of the contract or agreement of service with terms and conditions.

f) The successful proposer must obtain Chautauqua County approval prior to utilizing a subcontractor in order to perform the requirements of this RFP.

g) Submission of Proposals:

i. Sealed proposals shall be submitted to the Chautauqua Lake & Watershed Management Alliance (Alliance) Project Manager located at 201 West 3rd Street, Suite 115, Jamestown, NY 14701.

ii. No proposal will be considered which is not accompanied by pricing information for services to be rendered, and all proposals shall be signed by an authorized individual.

iii. Proposals must be received on or before the time and date specified. Proposals received after the time specified will not be considered and will be returned unopened.

iv. Proposal content may be publicly available by FOIL request before or after the award of the Contract by Chautauqua County. If you consider any portion of your proposal to be proprietary information or a trade secret, please contact the Alliance Project Manager prior to submitting such information.

h) Modifications or Withdrawal of Proposal:

i. Questions about or requests for clarification of an item for this RFP must be submitted in writing to rperry@chautauquaalliance.org. Questions must be submitted no fewer than five (5) days prior to the scheduled proposal submission date. County responses will be submitted to all parties in the form of an Addendum to the original RFP, receipt of which must be acknowledged with each proposal submittal.

ii. A proposal that is in the possession of Chautauqua County may be altered by a sealed letter bearing the signature or name of the authorized person, provided it is received PRIOR to the date and time of the opening. Fax, email, telephone or verbal alterations will not be accepted. A proposal that is in the possession of Chautauqua County may be withdrawn by the vendor up to the time of the opening. Failure of the successful proposer to furnish the service awarded, as a result of this Request for Proposal, may eliminate the proposer from the active vendors list for a period of time as determined by the Purchasing Manager.
i) Evaluation Criteria:

i. The County reserves the right to seek any clarifications needed to determine the most qualified submittal and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a proposer’s proposal and/or to determine compliance with the requirements of the solicitation.

ii. A contract may be awarded to the proposer whose proposal achieves the highest evaluation score by the evaluation committee based on the specified criteria, and not solely on the basis of price.

iii. Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of sixty (60) days from the due date of the proposals.

iv. The evaluation will be based on a point system, with the maximum number of points equaling fifteen (15) points.
   - Compliance with the RFP format requirements – Two Points (2.0)
   - Qualifications and Experience – Three points (3.0)
   - Approach and Schedule – Three points (3.0)
   - Total Contract Cost – Seven Points (7.0)

The evaluation team may, at its discretion, identify a shortlist of the highest-scoring proposers and invite them for in-person and/or telephone interviews as part of the selection process.

j) Award and Contract Information:

i. The proposer agrees that should their firm be awarded a contract, proposer will not discriminate against any person who performs work hereunder because of age, race, color, sex, creed, sexual orientation, national origin, or disability.

ii. The proposer expressly warrants to the County that it has the ability and expertise to perform its responsibilities hereunder and in so doing shall use the highest standards of professional workmanship.

iii. Chautauqua County reserves the right to reject any or all proposals, to waive any informality or technical defect in the proposals, or to award the contract in whole or in part, if deemed to be in the best interest of the County to do so. Explanations of County decisions shall not be required except as otherwise provided by law.

iv. The successful proposer will be required to enter into and sign an Agreement or an Agreement of Services (Contract) with the County with reasonable adjustments acceptable to the County. This RFP and the response of the successful proposer may become a part of the Contract and will be in effect for the duration of the contract. The Contract language will control over any conflicting language contained within this RFP.

v. The successful proposer will not commence any work, which could be billed, until a valid Contract has been executed by both the proposer and the County.
k) **Preparation of Proposal**

i. No proposal will be considered which modifies, in any manner, any of the provisions, scope of work, or minimum requirements set forth in the Request for Proposal.

ii. In case of error in the extension of prices in the proposal, unit prices will govern, where applicable.

iii. Proposers are expected to examine special provisions, the scope of work, schedules and instructions included in this Request. Failure to do so will be at the proposer’s risk.

iv. The County will not reimburse proposers for any costs associated with the preparation and submittal of any proposal, or for any travel and/or per diem costs that are incurred.

l) **Proposer Qualifications:**

i. Each proposer shall submit a statement of the proposer’s qualifications, experience, organization, equipment, and facilities available to adequately provide the service and material necessary to fulfill the minimum specifications for this RFP, unless otherwise specified in the scope of work.

ii. The County shall have the right to take such steps as it deems necessary to determine the ability of the proposer to perform obligations under the contact, and the proposer shall furnish to the County all such information and data for this purpose as may be requested.

iii. The County reserves the right to reject any proposal where an investigation of the available evidence or information does not satisfy the County that in its sole discretion, the proposer is qualified to properly carry out the terms of the Contract.

2. **RFP-SPECIFIC INFORMATION:**

*Project Overview:* This project is specific to an approximately 1,300-foot-long reach of Dutch Hollow Creek, just north of Interstate I-86, which is negatively impacted by excessive sediment loads and frequent debris jams that obstruct the channel, cause head cutting, cause erosion of banks and new side channels, and result in the formation of oversized depositional features.

The County is seeking a streambank stabilization and stream corridor restoration solution appropriate for the stream dynamics in this section of Dutch Hollow Creek that will protect nearby infrastructure and banks and significantly reduce the amount of sediment and nutrient loading to downstream areas, including Chautauqua Lake, caused by the ongoing bank and channel instability.

This project is being funded with a grant from the New York State Department of Environmental Conservation (NYSDEC) Water Quality Improvement Project (WQIP) program. Funds are available for implementation of the final, approved and permitted design.

Prior work includes a 2014 *Erosion Diagnosis and Mitigation Engineering Study / Watershed and Stream Assessment* for Dutch Hollow Creek, which included a survey of the project area. The successful proposer is expected to use this report for baseline knowledge of the project area and its subwatershed and to inform their design, as appropriate. An electronic copy of the 2014 report is available at the Chautauqua County Department of Planning & Economic Development website at [http://www.planningchautauqua.com/?q=watershed/public.htm](http://www.planningchautauqua.com/?q=watershed/public.htm). If you have issues accessing the report and/or appendices, please email rperry@chautauquaalliance.org or call 716-661-8923.

The 2014 study recommends restoration of this reach in conjunction with upstream sediment sources. This project combined with a West Dutch Hollow Creek project upstream (consultant selection via separate County RFP-WQIP02-17 issued concurrently with this RFP and due February 28, 2017) will work in concert to improve stream stability, reduce sediment load, and protect homes and highway infrastructure. Proposers are encouraged to respond to both RFPs. A copy of RFP-WQIP02-17 is available at the Chautauqua County Department of Planning & Economic Development website at [http://www.planningchautauqua.com/?q=watershed/public.htm](http://www.planningchautauqua.com/?q=watershed/public.htm).
The NYSDEC’s Hydrologic & Habitat Management Catalogue documents sediment as a major pollutant: potentially destroying fish spawning areas, eliminating aquatic food sources, reducing flow capacity of natural channels, compromising recreational value, and increasing treatment costs of water supplies.

The conceptual design for stabilization of this reach, based on applicable State and Federal Best Management Practices (BMPs), may include, but not be limited to, grade stabilization structures, sill/riffle structures, structural bank protection, natural channel restoration, and bioengineering. With the bank(s) held in place, willows and/or other native vegetation are expected to be planted to further stabilize the bank, establish a buffer from overland pollutant flow, and create additional shaded habitat.

**Scope of Services:** The County is seeking proposals from qualified firms to provide professional design services, to secure necessary permits, to provide construction cost estimation and public bidding for implementation on behalf of County, and to provide construction management and administration services for the stabilization/restoration of approximately 1,300 feet of stream corridor along Dutch Hollow Creek in the Town of Ellery, NY (see attached map and photos).

The successful proposer is expected to provide high-quality technical services and help the County satisfy all design- and implementation-related administrative requirements of its master contract with the State. This includes an overall utilization goal of 30% for Minority-owned and Women-owned Business Enterprises (M/WBE). Proposers are expected to demonstrate in their response how they expect to help the County achieve this goal.

**Schedule:** We anticipate selecting the successful proposer in Winter 2017, with work to commence upon contractual agreement on final budget and scope of services. We anticipate the following schedule:
- RFP Distributed: Friday, January 13, 2017
- RFP Submittals Due: Friday, February 24, 2017, by 3:30 PM ET
- Project award on or around: Tuesday, March 21, 2017

Please see the attached standard terms, insurance requirements, and sample agreement for doing business with the County. We anticipate implementation of the final design to occur during Summer/Fall 2017 upon approval of the final design, permitting, and selection of a qualified construction firm via competitive public bid.

**Deliverables (shall be submitted as printed and electronic copies):**
- Preliminary conceptual design including written analysis of alternatives
- 50% Engineering Plans & Specifications based on review/feedback from conceptual design
- All environmental permits required for implementation
- Written construction cost estimate
- Final Engineering Plans & Specifications, approved and stamped by a NYS Professional Engineer, necessary for successful competitive bid and implementation
- All records required to demonstrate compliance with applicable laws and regulations related to competitive bidding of public work
- All construction administration records, including as-built drawings and construction certification approved and stamped by a NYS Professional Engineer, required to satisfy County’s requirements for State reimbursement under the WQIP grant award

**Additional Requirements:**
- Successful proposer will coordinate access points and material staging areas with homeowner(s) as part of design
Figure 1. Location map for Dutch Hollow Creek field site.

Photo 1. Portion of creek to be stabilized/restored.

Photo 2. Portion of creek to be stabilized/restored.
Proposal Requirements:

Technical Summary (Envelope #1; limit 15 pages):
Label for Envelope #1: “RFP-WQIP01-17: Technical Proposal [INCLUDE PROPOSER NAME]”
Please include three (3) hard-copies and one (1) CD containing an electronic copy.

Statement of Design Approach: Submit a brief written narrative of the design concepts and approach that you plan to utilize for the project including satisfaction of M/WBE minimum requirements. Sketches or other graphical material may also be included.

Quality Management: Provide a brief written summary of how proposer would ensure project quality, including work performed by other subcontractors to implement design, when serving in the role of Construction Manager.

Proposed Schedule: Include a proposed timetable or flow chart for all stages of the work, and show project/task duration in calendar days from authorization to proceed.

Relevant Experience: Provide a summary of similar past projects performed by the proposer, including evidence of short- and/or long-term success, which demonstrates experience in providing the level and type of services specified in this RFP.

Professional Qualifications: Submit the professional qualifications of the project team, including names, titles, similar projects, years of experience, professional licenses, and resumes for key project staff, and relevant subcontractors (if any).
Cost Summary (Envelope #2):
Label for Envelope #2: “RFP-WQP01-17: Cost Proposal [INCLUDE PROPOSER NAME]"
Please include three (3) hard-copies and one (1) CD containing an electronic copy.

Please provide an overall cost summary using the format below, and attach a detailed itemization of the cost structure of each task that clearly identifies personnel by name and/or job title, hours, rates, and all other details by which project costs have been derived. The cost information provided must allow reviewers to clearly determine total hours, hours by task, and hours for key personnel by task.

Also, attach rate sheet(s) for personnel (including proposed subcontractors) and equipment proposed to be utilized.

Cost breakdown for design, permitting, and construction management services:

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<th>Description</th>
<th>Cost</th>
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<td>Preliminary Design Efforts (conceptual design, review, and revisions)</td>
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<td>Submit 50% Engineering Plans &amp; Specifications</td>
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<td>Obtain all required environmental permits</td>
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<td>Submit Final Engineering Plans &amp; Specifications</td>
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<td>Submit written construction cost estimate</td>
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<td>Publically bid construction on behalf of County</td>
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<td>Provide construction management services for implementation</td>
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<td>Submit final construction certification &amp; as-built drawings</td>
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<td><strong>Total Cost:</strong></td>
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ATTACHMENTS

NON-COLLUSION CERTIFICATE
IRANIAN DIVESTMENT
ACKNOWLEDGEMENT
EXCLUSION CHECKS

INSURANCE REQUIREMENTS
SAMPLE AGREEMENT
APPENDIX "A" TERMS AND CONDITIONS
NON-COLLUSION BIDDING CERTIFICATION

By submission of this bid, the bidder and each person signing on behalf of the bidder certifies, subject to the terms of Section 103-d of the General Municipal Law, as amended, and under penalty of perjury, that to the best of its knowledge and belief:

(a) The prices in this bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

(b) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly being disclosed by the bidder prior to the opening, directly or indirectly, to any other bidder or to any competitor; and

(c) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

(d) The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties of perjury affirms the truth hereof, such penalties being applicable to the bidder as well as to the person signing in its behalf.

Signature ____________________________________________

Title ________________________________________________

STATE OF NEW YORK       )
COUNTY OF               )     SS:

On this ________ day of __________, 2014, before me personally appeared ____________________, to me known, who being by me duly sworn, did depose and say that he resides at __________ _______________________, New York: that he is the _______________ of ______________________, the corporation described in and which executed the within instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of said corporation.

____________________________
Notary Public
Certification Pursuant to Section 103-g
Of the New York State
General Municipal Law

A. By submission of this bid/proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the New York State Finance Law. Such list can be found on the website of the office of general services, http://ogs.ny.gov/default.asp.

______________________________
Signature

______________________________
Title

______________________________
Date  Company Name
STATE OF } 
COUNTY OF } 

On the day_________of ____________ in the year 20___, before me personally appeared______________________________known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that he or she resides_______________________________________________________.

Town of______________________________________________,

County of______________________________________________,

State of______________________________________________

[Mark an X in the appropriate box and complete the accompanying statement.]

☐ (If an individual): this person executed the foregoing instrument in his/her name and on his/her own behalf.

☐ (If a corporation): this person is the________________________________________________________
of______________________, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, has executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

☐ (If a partnership): this person is _________________________________________________________,
of___________________________, the partnership described in said instrument; that, by the terms of said partnership is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, has executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

☐ (If a limited liability company): this person is a duly authorized member of___________________________LLC, the limited liability company described in said instrument; that is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, has executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Signature:_____________________________ on behalf of _________________________________.

______________________________
Notary Public

Registration No.
EXCLUSION CHECKS

Chautauqua County reserves the right to conduct exclusion checks on those who respond to its solicitations and on those with whom it contracts to verify that the contractor and its employees, subcontractors, and agents have not been sanctioned, excluded, debarred, suspended, or the subject of adverse governmental action by law enforcement, regulatory authorities, or licensing entities. This may include a check for exclusion from Federal healthcare programs. By submitting this proposal, you are: certifying that you are not prohibited from providing these services and/or goods as a result of being sanctioned, debarred, suspended, or excluded; agreeing that the County has the right to decline to enter into a contract with you in the event the County finds there to be a legal or funding source impediment to contracting with you; agreeing to provide written notice to the County immediately upon the occurrence of any sanction, exclusion, debarment, or suspension relating to your contract with the County; and agreeing that upon the occurrence of any such sanction, exclusion, debarment, or suspension, the County has the right to declare its contract with you to be terminated effective as of the moment of such occurrence or at such later date as is deemed by the County to be in the best interest of the County.

Name of Business

Authorized Signature

Printed Name

Date
This document shall be attached to and become part of the contract/agreement/service order. The contractor shall immediately forward to County, via facsimile to the County Department of Insurance (716) 753-4888 any notice of actual or pending termination, suspension or non-renewal of any of its policies. In the event the contractor's insurance expires or is terminated or suspended, County shall have all rights available for breach of contract and the contract/agreement/service order shall automatically and immediately terminate effective as of the moment of expiration, termination or suspension.

The contractor agrees that County shall have unlimited access to its insurance company and policies.

Certificate Requirements The certificate must:

A. be addressed to CHAUTAUQUA COUNTY, Department of Insurance, 3 N. Erie Street, Mayville, NY 14757-1007;
B. specify all coverage required below and elsewhere in the contract. Bid specifications or particular contracts, leases or agreements may require alternate coverages and limits, which must be evidenced on the Certificate in lieu of the coverages and limits specified below;
C. be issued by an insurer which has at as a minimum, BEST’S RATING of A- and be size category VII or higher;
D. state “CHAUTAUQUA COUNTY shall be an additional insured, as well as a certificate holder, on a direct, primary and non-contributory basis including products and completed operations”
   Note: Professional Liability, Worker’s Compensation, and Disability Benefits Liability Insurance policies are not required to have the County as an additional insured, however County shall be named as certificate holder;
E. include a waiver of subrogation for “Construction and Maintenance” and “Property Leased to Others or Use of Facilities or Grounds” coverage;
F. state “Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions”; and
G. be delivered to the Chautauqua County, Department of Insurance, 3 North Erie Street, Mayville, New York 14757, Fax No. (716) 753-4888

** MINIMUM COVERAGE LIMITS ARE AS FOLLOWS:**

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*The comprehensive/commercial general liability limits can be met by one or more policies or in combination with an excess and/or umbrella liability policy. The COI must indicate if the coverage trigger is an ‘occurrence’ form or a ‘claims-made’ form.

** NYS Work Comp Board requires special certificates of insurance for these coverages. WC needs to be on C-105.2 (9-07) or U-26.3. Any business with a location in NYS must show DB on a DB-120.1(5-06) showing beginning and ending dates or DB-155. Self Employed vendors must use CE-200 to waive WC and DB. Form can be completed on NYS WCB website electronically.

Construction and Maintenance contractors shall carry insurance for a minimum of two years after completion of the work. The expiration date for any claims-made policy must be at least ninety (90) days after the expiration of the contract for services or final delivery of any products. All claims made policies shall continue to provide evidence of coverage three (3) years after completion of work or product delivery.

NOTE: Childcare providers minimum liability coverage is $1,000,000 and must include sexual abuse coverage, with cancellation notice as provided for in the insurance policy. The naming of Chautauqua County as an additional insured on Day Care insurance is required.

August 29, 2012
AGREEMENT

Streambank Stabilization Design, Permitting, and Construction Management on Dutch Hollow Creek

This Agreement is made as of _____________, 2017, by and between the following parties:

COUNTY: COUNTY OF CHAUTAUQUA, NEW YORK
A Municipal Corporation
Gerace Office Building
Mayville, New York 14757-1007
Hereinafter called "County,"

-and-

CONTRACTOR: NAME OF CONTRACTOR
Address
City, State Zip Code
Hereinafter called "Contractor."

WITNESSETH:

WHEREAS, County, through its Department of Planning and Economic Development, received funding through the New York State Department of Environmental Conservation’s Water Quality Improvement Program ("WQIP") - Round 12 for environmental restoration projects intended to reduce the deposition of sediment and nutrient into Chautauqua Lake through the stabilization of six problematic tributary streams within the Chautauqua Lake watershed, and

WHEREAS, the County Legislature authorized the acceptance of WQIP grant funds for such purpose via Resolution No. 75-16, and

WHEREAS, County issued RFP No. _______________ dated ____________, 2017, soliciting competitive proposals for professional services for streambank stabilization design, permitting, and construction management on Dutch Hollow Creek, and

WHEREAS, in response to said RFP, Contractor submitted the proposal highest-scored by the evaluation committee based on the
specific criteria in accordance with County’s purchasing policy and New York State General Municipal Law, and

WHEREAS, Contractor is able and willing to perform the professional services for streambank stabilization, design, permitting, and construction management on Dutch Hollow Creek,

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. **Contract Documents.** The Contract Documents consist of the following, including all current and future appendices, attachments, addenda, adjustments, updates, and amendments: this Agreement; Contractor’s proposal dated __________, 2017; County RFP No. _____________ issued ____________, 2017; County’s grant application to New York State Department of Environmental Conservation WQIP - Round 12; County’s grant agreement with the New York State Department of Environmental Conservation, Agreement Number 16-26-22; and all applicable federal, state, and local laws, rules, regulations, requirements, resolutions, ordinances, policies, procedures, manuals, circulars, licenses, permits, certifications, standards, guidelines, and guidance and implementation memos, as amended. Contract Documents are as fully a part of this Agreement as if attached hereto or repeated herein.

   All services, including those provided by subcontractors, shall be provided in furtherance of and in conformance with the Contract Documents. It is Contractor’s responsibility to make itself and any subcontractors aware of applicable Contract Document requirements.

   In the event of a conflict between the terms of this Agreement and the terms of another Contract Document, the terms of this Agreement shall apply, provided, however, that where the other Contract Document provides greater detail about or elaboration of an obligation set forth in this Agreement, the provisions of the other Contract Document shall be considered as
additional requirements to the duty or obligation found in this Agreement, enforceable at the option of County. This Agreement is to be construed as requiring conformance with all local, State, and Federal requirements.

2. Services. Contractor shall provide professional design services, secure necessary permits, provide construction cost estimation and public bidding for implementation on behalf of County, and provide construction management and administration services for the stabilization and restoration of approximately 1,300 feet of stream corridor along Dutch Hollow Creek. Contractor shall provide high-quality technical services and help County satisfy all design and implementation-related administrative requirements in accordance with County’s WQIP grant agreement with the New York State Department of Environmental Conservation. Contractor’s services shall be carried out in accordance with the specifications set forth in County issued RFP No.

3. Payment. The maximum amount payable under this Agreement shall be ____________ and No/100 Dollars ($________). Payment shall be made upon submission by Contractor to County of properly itemized, certified, and executed County claim vouchers or invoices whose form and content shall be subject to review and approval of the County Director of Planning and Economic Development or duly authorized designee, together with all fiscal records and documentation as reasonably requested evidencing proof of reimbursable expenditures as required by County and New York State. All Contractor’s expenditures shall be documented as required by New York State and in time for County to meet the schedule for submissions in accordance with the County’s WQIP grant agreement with the New York State Department of Environmental Conservation.
4. **Term.** This Agreement shall commence as of January 1, 2017 and shall terminate December 31, 2018. County can terminate or cancel this Agreement, in whole or in part, upon thirty (30) days' written notice to Contractor with accounts between the parties to be prorated and adjusted as of such termination date. County can immediately by written notice terminate this Agreement in the event Contractor violates any of the provisions of this Agreement.

This Agreement shall be deemed executory to the extent of funds provided to County from New York State and appropriated by the County Legislature for the objects and purposes hereof. In the event of a substantial or unanticipated reduction in funding, County reserves the right, by written notice, to immediately terminate this Agreement, in whole or in part, with accounts between the parties to be prorated and adjusted as of such termination date.

5. **Records.** Contractor shall prepare and maintain in an orderly manner all relevant program and statistical records relating to the services required hereunder, and shall provide records to County, New York State Office of the Comptroller, or New York State Office of the Attorney General upon request. All books, records, and other documents relevant to this Agreement shall be available upon request for inspection and/or audit by County, New York State Office of the Comptroller, or New York State Office of the Attorney General during the term of this Agreement and for a period of six (6) years after final payment has been made for services rendered.

6. **Additional Terms and Conditions.** Contractor shall comply with all provisions contained in Appendix A attached hereto and made a part of this Agreement.
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

COUNTY OF CHAUTAUQUA

BY __________________________ DATE __________________________

Vincent W. Horrigan, County Executive

CONTRACTOR

BY __________________________ DATE __________________________

Name of Signatory, Title

STATE OF NEW YORK )
COUNTY OF CHAUTAUQUA )  ss:

On the __________ day of __________, in the year 2017 before me, the undersigned, personally appeared VINCENT W. HORRIGAN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

__________________________
Notary Public
STATE OF  )
COUNTY OF  ) ss:

On the day of , in the year 2017 before me, the undersigned, personally appeared , personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity, and that by his/her/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public
Amendment. No waiver, modification, or amendment of this Agreement or any part thereof shall be valid unless in writing and duly executed by the parties hereto. A waiver of any breach hereof shall not prevent forfeiture for any succeeding breach.

Assignment. Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this Agreement or any of its rights, title, or interest therein, or the power to execute this Agreement, without the prior written consent of the County.

Audit. County, itself or through a third party, reserves the right to audit Contractor upon reasonable notice to ensure compliance with this Agreement. Contractor shall fully comply with any such audit.

Binding Agreement. This Agreement shall be binding on the parties, their successors, heirs, and assigns.

Certification. By submitting a claim to County for payment, Contractor certifies: that claims are just, true, and correct; that goods are of the quantity and quality stated or that the services were actually performed; that prices are reasonable and in accordance with this Agreement; that no portion of any claim has been paid; that there exist no offsets or counterclaims; and that no tax is included.

Confidentiality. Information relating to individuals who may receive services pursuant to this Agreement shall be confidential and maintained and used only for the purposes intended under this Agreement, in accordance with any applicable State or Federal laws, rules and regulations. If Contractor is a Business Associate of the County as defined by HIPAA, Contractor shall comply with the terms of County’s standard Business Associate Agreement, as the same may be amended from time to time, unless otherwise agreed upon in writing by the parties. This requirement shall survive termination of this Agreement.

Conflict. In the event of a conflict between the terms of this Agreement and the terms of any other Contract Document, the terms of this Agreement shall be controlling notwithstanding anything in Contractor’s documents to the contrary.

Debarment/Suspension – see County solicitation documents.

Entire Agreement. This Agreement contains the sole and entire Agreement between the parties relating to the services provided hereunder and shall supersede any and all other Agreements between the parties. Any other statements or representations made by either party are void and have no force or effect.

Force Majeure. The County may terminate or suspend its performance under this Agreement, in whole or in part, immediately upon the occurrence of a “force majeure.” A “force majeure” shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout, and any unforeseen circumstances and acts beyond the control of the County which render performance of its obligations impossible.

Guarantee. Contractor shall fully guarantee the quality and workmanship of the services and/or goods provided, and shall represent and warrant that such goods or services meet or exceed all applicable industry standards.

Governing Law. Notwithstanding any statement in this or any other document to the contrary, this Agreement shall be governed by the laws of the State of New York, without regard to its principles on conflicts of law, and any disputes hereunder shall be heard by a court of competent jurisdiction in Chautauqua County, New York, unless this paragraph is physically crossed out and initialed by both parties, or unless the Federal supremacy clause requires otherwise.

Independent Contractor. Contractor is an independent contractor and not an employee, servant, or agent of the County. Contractor shall have exclusive responsibility for the means, manner, and methods of performing its obligations under this Agreement.

Indemnification. Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by Contractor or its subcontractors pursuant to this Agreement. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold County and its officers and employees harmless from any liability, claim, demand, loss, judgment, expense, and cost of every type, amount, and nature, direct and indirect and without limitation, including the costs of defense, arising from Contractor’s performance or failure to perform the terms of this Agreement. In the event this Agreement is funded by Federal or State funds, and County is required to indemnify the funding source(s) of this Agreement, Contractor shall be required to indemnify the funding source to the full extent that County is contractually obligated to do so, to the extent such obligation arises from Contractor’s action or failure to act in accordance with this Agreement.

All money expended by County as a result of such claims, actions, damages, losses, expenses, and costs, together with interest at a rate not to exceed the maximum interest rate permitted by law, shall be immediately and without notice due and payable by Contractor to County.

Such obligation to the County shall not be construed to negate, abridge or reduce other rights of indemnity which would otherwise exist. This provision shall supersede any other provision in this Agreement, including attachments and referenced items, deemed to be in conflict, unless specifically stated otherwise.

Insurance. Unless waived by the County Attorney or his/her designee in writing, Contractor shall secure and maintain the insurance specified at http://chautauqua.ny.us/DocumentCenter/View/2491 incorporated by reference as though fully set forth herein, with County named as an additional insured for purposes of coverage on a direct, primary, and non-contributory basis. The insurance afforded the additional insureds shall be at least as broad as that afforded to the first named insured. County as additional insured will be entitled to the limits stated in the contract or the full limits of the policy, whichever is greater. Contractor shall file a certificate of insurance with the County prior to performing pursuant to this Agreement or receiving any payment. Contractor shall provide new insurance certificates when the existing certificates expire, without demand.

Contractor shall immediately forward to County (fax (716) 753-4888) any notice of actual or pending termination, suspension, or non-renewal of insurance. In the event Contractor’s insurance expires or is terminated or suspended, County shall have all rights available for
breach of contract, and may declare this Agreement to be automatically and immediately terminated effective as of the moment of expiration, termination, or suspension. In addition, County reserves the right to withhold payment to Contractor until such new certificates have been provided and approved. County shall have unlimited access to Contractor’s insurance company and policies.

Licenses and Permits. Contractor shall secure and maintain throughout the term of this Agreement all necessary licenses, permits, and other certifications and qualifications required for its performance of this Agreement. Contractor shall immediately notify the County of any notice of, or actual, revocation or restriction of a license, permit, or other certification necessary for its performance of this Agreement. In the event of a revocation which prohibits Contractor from being able to perform this Agreement, this Agreement shall automatically terminate effective as of the moment of such revocation.

Non-Discrimination. In the performance of this Agreement, Contractor will not discriminate or permit discrimination against any individual or group on the grounds of age, color, creed, disability, domestic violence victim status, handicap, marital status, military status, national origin, political affiliation, predisposing genetic characteristics, race, religion, sex (including gender identity or expression), sexual orientation, or veteran status. Contractor shall comply with County’s Title VI (non-discrimination) policy, which can be found at [http://chautauqua.ny.us/DocumentCenter/View/2402](http://chautauqua.ny.us/DocumentCenter/View/2402).

Notice of Investigation. Contractor shall notify County in writing within five (5) calendar days of obtaining knowledge of the commencement of any investigation or audit or adverse action against Contractor by any governmental agency, to the extent such audit, investigation, or action relates in any way to contract services.

Set-Off Rights. County shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the option to withhold for the purposes of set-off any money due to Contractor under this Agreement or any other Agreement, up to any amounts due and owing to County with regard to any contract with any Contractor.

Chautauqua County department, office or agency.

Severability. Should any part, term, or provision of this Agreement be determined, by a court of competent jurisdiction, to be invalid, unenforceable, illegal, or in conflict with any law, the validity, legality, and enforceability of the remaining portions shall not be impaired or affected.

Statutory Compliance. Contractor shall perform in accordance with all applicable federal, state, and local laws, rules and regulations, including without limitation any applicable provisions of the Labor Law of the State of New York. All statutory and regulatory provisions applicable to this Agreement are hereby incorporated by reference. Contractor shall provide, at its own expense, all permits, licenses, and certifications required for the performance of its services pursuant to this Agreement and shall be solely responsible for paying any and all fines or penalties incurred as a result of any improper activities.

Subcontracts. Contractor shall: (a) require any subcontractor, agent, volunteer, or other third party (Third Party) performing Agreement services to comply with all applicable Federal, State and Local laws, rules and regulations; (b) adopt and perform such review and inspection procedures as are necessary to ensure compliance by Third Party with this Agreement; (c) require any third party to indemnify County against any and all claims arising out of such Third Party’s performance of, or failure to perform, the Agreement, with Contractor assuming such indemnification itself to the extent a Third Party fails to do so; and (d) remain fully obligated under this Agreement notwithstanding its delegation of a Third Party to undertake all or any portion of the performance of this Agreement. Contractor shall inform Third Parties, and require Third Parties to abide by, all relevant provisions of this Agreement.

Survival. The terms and conditions of this Agreement shall survive the expiration of this Agreement to the full extent necessary for their enforcement and for the protection of the party in whose favor they operate.

Termination Obligations. Upon receipt of notice of termination of this Agreement, Contractor shall cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, unless otherwise directed by County, and shall not incur any new obligations after receipt of the termination notice without written approval of County.

Waivers. Any waiver of a breach of this Agreement shall not be deemed to be a waiver of any preceding or future breach of the same or any other covenant, term, or condition.

Wages and Hours. When applicable, Contractor shall comply with §220-c and §239 of New York State Labor Law. 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 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, if this is a public work contract covered by Article 8 of the Labor Law, 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 County of any County-approved sums due and owing for work performed upon the project.

Workers Compensation Coverage. If this Agreement is of such a character that the employees engaged thereon are required to be insured under the workers’ compensation law, then, in accordance with General Municipal Law §108, this Agreement is void and of no effect unless the person or corporation making or performing this Agreement shall secure compensation for the benefit of, and keep insured during the life of this Agreement, such employees, in compliance with the provisions of the workers’ compensation law.