

RESOLUTION NO. 274-A FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor	Peter G. Crummey
Councilwomen	Danielle Futia
	Melissa Jeffers
	Jill Penn
Councilmen	Rick Field, Sr.
	Alvin Gamble
	Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution establishing one (1) position of Legal Intern, Grade 9, in the Attorney's Office and appointing Katelyn Kaczowski to same.

BE IT RESOLVED that one (1) position of Legal Intern, Grade 9, in the Attorney's Office be, and hereby is, established; and

BE IT RESOLVED that Katelyn Kaczowski be, and hereby is, appointed to the position of Legal Intern, Grade 9, in the Attorney's Office at an annual salary of \$42,809 effective June 6, 2022.

RESOLUTION NO. 275 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor	Peter G. Crummey
Councilwomen	Danielle Futia
	Melissa Jeffers
	Jill Penn
Councilmen	Rick Field, Sr.
	Alvin Gamble
	Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

**Resolution Pursuant to Article 12A of State of New York Town Law
approving/not approving the Cold Spring Subdivision – S.I.A. 2020-
002.**

WHEREAS, Starlight Development Co. desires to construct the proposed sewer improvement project extending municipal sewer service to 499 Albany-Shaker Road and 507 Albany-Shaker Road – S.I.A.# 2020-002, pursuant to the provisions of Article 12A of State of New York Town Law; and

WHEREAS, the Town Board of the Town of Colonie desires to extend municipal sanitary sewer service to 499 Albany-Shaker Road and 507 Albany-Shaker Road. The sewer main extension for the proposed subdivision, known as S.I.A.# 2020-002, will include 1,923 lineal feet of 8" PVC SDR 26 and 13 manholes will be placed within the road right-of-way. The proposed sewer will enter the existing public sewer at existing SMH 1161 within an easement between the subject property and 513 Albany Shaker Road; the particulars of which are set forth in the engineer's report on file in the Town Clerk's Office; and

WHEREAS, a report, map, plan and estimate of cost has been prepared by Hershberg & Hershberg, engineers duly licensed by the State of New York, the particulars of which are set forth in the engineer's report on file in the Town Clerk's Office; and

WHEREAS, the maximum amount proposed to be expended for said Project is Seventy-Two Thousand One Hundred Twenty Dollars and 00/100 (\$72,120.00) which will be paid entirely by the owner; and

WHEREAS, a Resolution was duly adopted by said Board on the 5th day of May, 2022, pursuant to Article 12A of the State of New York Town Law calling for a public hearing on said map, plan and estimate of cost to be held at the Town Hall, Latham, New York on the 2nd day of June, 2022, at 7:00 p.m. Local Time; and

WHEREAS, notice of such public hearing was duly published and posted in the manner required by State of New York Town Law; and

WHEREAS, said public hearing was duly held at the time and place aforesaid at which time all persons interested in the subject matter thereof were duly heard; and

WHEREAS, the Town of Colonie Planning Board as lead agency under the New York State Environmental Quality Review Act (SEQRA) has reviewed the aforementioned project and issued a Negative Declaration finding that the proposed project will not have a significant environmental impact;

NOW, THEREFORE, IT IS ORDERED, RESOLVED AND DETERMINED, by the Town Board of the Town of Colonie, Albany County, New York, as follows:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby determined that the property owners within the proposed improvement area are benefited thereby and that said benefited property and property owners are included within the limits of the proposed improvement area.

Section 2. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to construct the aforesaid improvements at the maximum amount to be expended for the aforementioned improvements is Seventy-Two Thousand One Hundred Twenty Dollars and 00/100 (\$72,120.00) which will be paid entirely by the Developer for said Project.

Section 3. This resolution shall take effect immediately.

RESOLUTION NO. 276 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor	Peter G. Crummey
Councilwomen	Danielle Futia
	Melissa Jeffers
	Jill Penn
Councilmen	Rick Field, Sr.
	Alvin Gamble
	Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution authorizing the Supervisor to execute an Agreement with the New York State Justice Center to allow access to, and use of, the Police Range and Training Facility.

WHEREAS, the New York State Justice Center desires to use the Town Police Range and Training Facility to conduct training of its personnel; and

WHEREAS, the agreement will be for the period of June 1, 2022 to December 31, 2023; and

WHEREAS, the agency shall be required to pay a \$500.00 annual maintenance fee;

BE IT RESOLVED, that the Supervisor be, and hereby is, authorized to execute an agreement with the New York State Justice Center to allow access to, and use of, the Police Range and Training Facility; and

BE IT FURTHER RESOLVED that such agreement is subject to the review and approval of the Town Attorney's Office.

RESOLUTION NO. 277 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor	Peter G. Crummey
Councilwomen	Danielle Futia
	Melissa Jeffers
	Jill Penn
Councilmen	Rick Field, Sr.
	Alvin Gamble
	Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution authorizing the Supervisor to execute an Agreement with the Federal Air Marshal Service to allow access to, and use of, the Police Range and Training Facility.

WHEREAS, the Federal Air Marshal Service desires to use the Town Police Range and Training Facility to conduct training of its personnel; and

WHEREAS, the agreement will be for the period of June 2, 2022 to December 31, 2023;

BE IT RESOLVED, that the Supervisor be, and hereby is, authorized to execute an agreement with the Federal Air Marshal Service to allow access to, and use of, the Police Range and Training Facility; and

BE IT FURTHER RESOLVED that such agreement is subject to the review and approval of the Town Attorney's Office.

RESOLUTION NO. 278 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor	Peter G. Crummey
Councilwomen	Danielle Futia
	Melissa Jeffers
	Jill Penn
Councilmen	Rick Field, Sr.
	Alvin Gamble
	Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution authorizing the Supervisor to enter into an Agreement with Life Church in connection with the use of its Albany location as an emergency evacuation/reunification site for Colonie schools in the event of emergencies warranting school evacuations.

WHEREAS, Life Church shall grant the Town the right to use the auditorium, lobby and restrooms at Life Church, 687 Watervliet Shaker Road for use during emergencies as an evacuation site; and

WHEREAS, the agreement shall automatically terminate on May 25, 2023, or the end of the Spring semester of the 2022-2023 school year, whichever comes first;

BE IT RESOLVED that the Supervisor be, and hereby is, authorized to enter into an agreement with Life Church in connection with the use of its Albany location as an emergency evacuation/reunification site for Colonie schools in the event of emergencies warranting school evacuations; and

BE IT FURTHER RESOLVED that such agreement is subject to the review and approval of the Town Attorney's Office.

RESOLUTION NO. 279 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor	Peter G. Crummey
Councilwomen	Danielle Futia
	Melissa Jeffers
	Jill Penn
Councilmen	Rick Field, Sr.
	Alvin Gamble
	Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution requiring the Planning Board to review and consider an open development area at 11 Island View Road.

WHEREAS, pursuant to Town Law §280-a (4) the Town Board is authorized to refer matters in connection with open development areas to the Planning Board for its review; and

WHEREAS, the Town Board would like to recommend that the Planning Board review the proposed project located at 11 Island View Road as a possible open development area;

BE IT RESOLVED that the Planning Board shall review and consider the proposed project located at 11 Island View Road as a possible open development area and provide the Town Board with its findings, conclusions and recommendation thereon.

RESOLUTION NO. 280 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor	Peter G. Crummey
Councilwomen	Danielle Futia
	Melissa Jeffers
	Jill Penn
Councilmen	Rick Field, Sr.
	Alvin Gamble
	Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution requiring the Planning and Economic Development Director to review and consider the proposed amendment of the Canterbury Crossing PDD.

WHEREAS, the Town Board recommends that the Planning and Economic Development Director review the amendment of the Canterbury Crossing Planned Development District; and

WHEREAS, the applicant seeks to install an above-ground pool at 6 Eagles Lane;

BE IT RESOLVED that the Planning and Economic Development Director be, and hereby is, authorized to review and consider the proposed amendment of the Canterbury Crossing PDD.

RESOLUTION NO. 281 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor Peter G. Crummey
 Councilwomen Danielle Futia
 Melissa Jeffers
 Jill Penn
 Councilmen Rick Field, Sr.
 Alvin Gamble
 Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution awarding the bid to PlanIt Geo, Inc. in connection with Tree Inventory and Management Plan 2022 and authorizing the Supervisor to execute an agreement for same.

WHEREAS, pursuant to advertisement on April 20, 2022, bids were received in connection with the Tree Inventory and Management Plan 2022:

Vendor	Inventory Cost	Optional Management Plan Cost	Total of Both
PlanIt GEO, Inc.	\$62,500.00	\$14,025.00	\$76,525.00
LBS Ecological	\$67,400.00	\$8,100.00	\$75,500.00
Davey Resource Group, Inc.	\$71,665.00	\$5,000.00	\$76,665.00

WHEREAS, after review of the bids by the General Services Director; and

WHEREAS, there will be no award for Optional Management Plan Cost;

BE IT RESOLVED that the bid will be awarded to the low bidder, PlanIt Geo, Inc., for the inventory cost in the amount of \$62,500.00; and

BE IT RESOLVED that the Supervisor be, and hereby is, authorized to execute an agreement for same; and

BE IT FURTHER RESOLVED that such agreement is subject to the review and approval of the Town Attorney's Office.

RESOLUTION NO. 282 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor Peter G. Crummey

Councilwomen Danielle Futia

Melissa Jeffers

Jill Penn

Councilmen Rick Field, Sr.

Alvin Gamble

Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution authorizing the Supervisor to execute an agreement between the Town of Colonie and the Village of Colonie to provide for the sale of water and related services to the Village of Colonie.

BE IT RESOLVED that the Supervisor be, and hereby is, authorized to execute an agreement between the Town of Colonie and the Village of Colonie to provide for the sale of water and related services to the Village of Colonie from June 1, 2021 to May 31, 2024; and

BE IT FURTHER RESOLVED that such agreement is subject to review and approval of the Town Attorney's office.

RESOLUTION NO. 283 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor Peter G. Crummey
Councilwomen Danielle Futia
Melissa Jeffers
Jill Penn
Councilmen Rick Field, Sr.
Alvin Gamble
Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution awarding the bid to Pad Business Forms in connection with the Printing and Mailing of Water Meter Cards for the DPW/Division of Latham Water.

WHEREAS, pursuant to advertisement on April 27, 2022, the following three (3) bids were received in connection with the Water Meter Cards Printing and Mailing 2022:

		A	B	C
	Vendor	Price Per Thousand	Cost of One (1) Billing Section	Total Estimated Cost
1.	Pad Business Forms	\$288.00	\$1,065.00	\$6,393.00
2.	Graphic Image	\$363.2432	\$1,344.00	\$8,064.00
3.	Fort Orange Press, Inc.	\$475.00	\$1,758.00	\$10,545.00

Tabulation Formulas: (A * 3.7 = B) (B * 6 = C)

WHEREAS, after review of the bids and upon the recommendation of the General Services Director and the Superintendent of the DPW/Division of Latham Water; and

WHEREAS, the bid is renewable for two (2) additional one (1) year periods expiring on May 31, 2024 and May 31, 2025;

BE IT RESOLVED that the low bidder, Pad Business Forms be, and hereby is, awarded the bid for Printing and Mailing of Water Meter Cards for the DPW/Division of Latham Water in the amount of \$6,393.00.

RESOLUTION NO. 284 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor Peter G. Crummey
 Councilwomen Danielle Futia
 Melissa Jeffers
 Jill Penn
 Councilmen Rick Field, Sr.
 Alvin Gamble
 Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution authorizing the Supervisor to reimburse for overestimated water usage at 3 West Garling Drive.

BE IT RESOLVED that the Supervisor be, and hereby is, authorized to reimburse the following for overestimated water usage:

Amanda R. Di Ianne	3 West Garling Drive	\$6,555.08
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RESOLUTION NO. 285 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor	Peter G. Crummey
Councilwomen	Danielle Futia
	Melissa Jeffers
	Jill Penn
Councilmen	Rick Field, Sr.
	Alvin Gamble
	Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution authorizing the Supervisor to declare an emergency in connection with repair of the sanitary sewer system at 8 University Street by ANJO Construction, Ltd. and authorizing the Comptroller to expend Emergency Repair Reserve funds for the same.

BE IT RESOLVED that the Supervisor be, and hereby is, authorized to declare an emergency in connection with repair of the sanitary sewer system at 8 University Street by ANJO Construction, Ltd. for the DPW/Division of Pure Waters; and

BE IT FURTHER RESOLVED that the Comptroller be, and hereby is, authorized to expend \$6,928.62 from the Emergency Repair Reserve funds for the same.

RESOLUTION NO. 286 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor Peter G. Crummey
 Councilwomen Danielle Futia
 Melissa Jeffers
 Jill Penn
 Councilmen Rick Field, Sr.
 Alvin Gamble
 Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution awarding the bids to J. Squared Construction Corp. and Spring Electric, Inc. in connection with the Mohawk View Water Pollution Control Plant Blower Replacement Project and authorizing the Supervisor to execute agreements for same.

WHEREAS, pursuant to advertisement on April 6, 2022, bids were received in connection with the MVWPCP Blower Replacement Project:

General Construction Contract 1 – G

Vendor	Grand Total
J Squared Construction Corp	\$1,545,000.00
Rozell East, Inc.	\$1,690,000.00
John Danforth Company	\$1,733,000.00
CFI Contracting, Inc.	\$1,819,000.00
Trinity Construction	\$1,856,993.00
Gallo Construction Corp.	\$1,995,000.00

Electrical Contract 1 – E

Vendor	Grand Total
Spring Electric, Inc.	\$270,000.00
O'Connell Electric Company	\$365,000.00
CKM Electrical Services Inc.	\$383,400.00

WHEREAS, after review of the bids by the General Services Director;

BE IT RESOLVED that the bid for Contract 1-G General Construction be awarded to the low bidder, J. Squared Construction Corp., in the amount of \$1,545,000.00; and

BE IT RESOLVED that the bid for Contract 1-E Electrical Contract be awarded to the low bidder, Spring Electric, Inc., in the amount of \$270,000.00; and

BE IT RESOLVED that the Supervisor be, and hereby is, authorized to execute agreements for same; and

BE IT FURTHER RESOLVED that such agreements are subject to the review and approval of the Town Attorney's Office.

RESOLUTION NO. 287 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor Peter G. Crummey

 Councilwomen Danielle Futia

 Melissa Jeffers

 Jill Penn

 Councilmen Rick Field, Sr.

 Alvin Gamble

 Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution authorizing the General Services Director to advertise for request for proposals for third party credit card merchant services.

BE IT RESOLVED that the General Services Director be, and hereby is, authorized to advertise for request for proposals for third party credit card merchant services.

RESOLUTION NO. 288 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor	Peter G. Crummey
Councilwomen	Danielle Futia
	Melissa Jeffers
	Jill Penn
Councilmen	Rick Field, Sr.
	Alvin Gamble
	Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution appointing Daniel Grebert to the Employee Assistance Program Committee.

BE IT RESOLVED that Daniel Grebert is hereby appointed as a member of the Employee Assistance Program Committee.

RESOLUTION NO. 289 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor Peter G. Crummey
 Councilwomen Danielle Futia
 Melissa Jeffers
 Jill Penn
 Councilmen Rick Field, Sr.
 Alvin Gamble
 Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution awarding the bid to Anjo Construction in connection with the 2022 Sanitary Sewer Repair Program and authorizing the Supervisor to execute an agreement for same.

WHEREAS, pursuant to advertisement on May 11, 2022, bids were received in connection with the 2022 Sanitary Sewer Repair Program:

Vendor	Grand Total Group 1
Anjo Construction	\$232,711.00

WHEREAS, after review of the bids by the General Services Director; and

BE IT RESOLVED that the bid will be awarded to the sole bidder, Anjo Construction, for the base amount of \$232,711.00 plus, unit cost of 6” gravity pipe at a cost of \$250.00 per LF, 6” pressure pipe at a cost of \$300.00 per LF, and 8” gravity pipe at a cost of \$400.00 per LF, should it be required; and

BE IT RESOLVED that the Supervisor be, and hereby is, authorized to execute an agreement for same; and

BE IT FURTHER RESOLVED that such agreement is subject to the review and approval of the Town Attorney’s Office.

RESOLUTION NO. 290 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor	Peter G. Crummey
Councilwomen	Danielle Futia
	Melissa Jeffers
	Jill Penn
Councilmen	Rick Field, Sr.
	Alvin Gamble
	Jeffrey Madden

ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

**Resolution authorizing the Supervisor to execute a Contract with
County Waste in connection with the recycling at the Town Library.**

WHEREAS, the Town Library will use County Waste service and rent a 4 yard bin at \$75.00 per month;

BE IT RESOLVED that the Supervisor be, and hereby is, authorized to enter into a Contract with County Waste in connection with the recycling at the Town Library; and

BE IT FURTHER RESOLVED that such contract is subject to the review and approval of the Town Attorney's Office.

RESOLUTION NO. 291 FOR 2022

A regular meeting of the Town Board of the Town of Colonie was held at Town Hall on the 2nd day of June, 2022 at 7:00 PM.

PRESENT: Supervisor	Peter G. Crummey
Councilwomen	Danielle Futia
	Melissa Jeffers
	Jill Penn
Councilmen	Rick Field, Sr.
	Alvin Gamble
	Jeffrey Madden

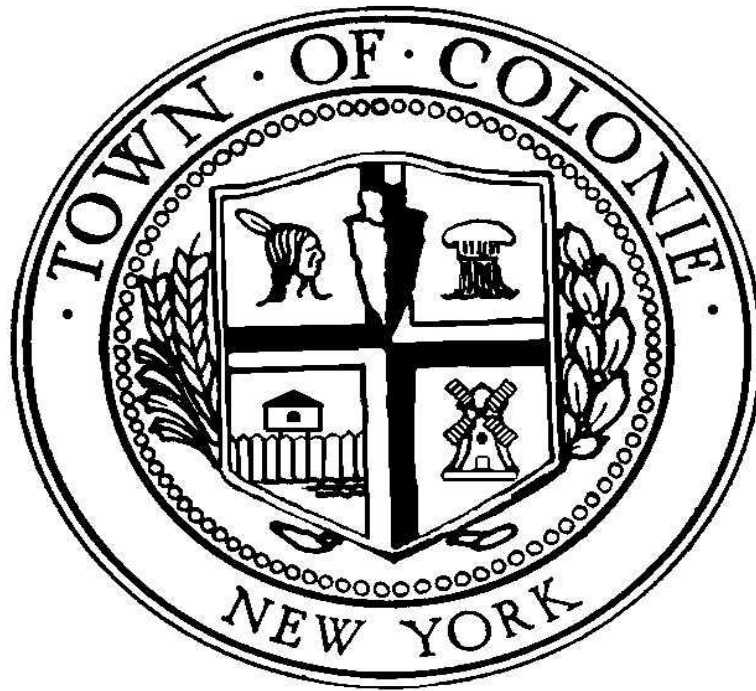
ABSENT: None

Councilwoman _____ offered the following resolution and moved its adoption:

Resolution authorizing the Town Board to approve the Town Procurement Policy and to approve a revision to the Town Procurement Policy and Procedure to incorporate the list of Town Employees responsible for purchasing pursuant to General Municipal Law Section 104-b.

WHEREAS, it is Town policy to ensure fair and consistent consideration of potential vendors offering services and goods to the Town and meet New York State requirements for competitive bidding;

THEREFORE, BE IT RESOLVED that the Town Board be, and hereby is, authorized to approve a revision to the Town Procurement Policy and Procedure in connection with Town Employees responsible for purchasing pursuant to General Municipal Law Section 104-b as set forth in the annexed Exhibit "A".



TOWN OF COLONIE

**PROCUREMENT POLICIES
AND
PROCEDURES**

June 2, 2022

EXHIBIT “A”

Town of Colonie

Purchasing Policy and Procedures

Mission Statement

The Town of Colonie General Services Department dedicates itself to the procurement of the right goods and services at the right price for the various Town departments in a timely manner assuring the prudent and economical use of public monies. The Town will facilitate the acquisition of goods and services at the lowest possible cost and at the same time guard against favoritism, extravagance and fraud.

Introduction

It is, therefore, essential that the purchasing policies and procedures of the Town of Colonie be clearly established and understood by all concerned.

The Purchasing Manual has been prepared as a statement of the policy upon which our purchasing practices and procedures are based.

The Town declares its intention to purchase competitively without prejudice and to seek maximum operational value for every dollar expended.

Purchasing Policy

- ❖ The General Services Director is responsible for reviewing and administering the purchasing program of Town of Colonie.
- ❖ Members of the Purchasing Department shall maintain effective and professional public, vendor and customer relationships.
- ❖ To maintain a high level of quality service to our customers, we encourage our staff to participate in the numerous educational opportunities offered in the purchasing field; and to keep abreast of current developments in market conditions,

pricing, new products and New York State laws as they pertain to the purchase of goods and services for the Town.

- ❖ The Purchasing policy herein shall be administered in accordance with all ethical rules called for by the Town of Colonie and the National Institute of Governmental Purchasing Code of Ethics.
- ❖ The purchasing procedures employed will comply with all applicable laws and regulations of New York State and shall be subject to the approval of the Town Board.
- ❖ Each procurement request will be examined by a member of the Town of Colonie Purchasing Department and processed according to the guidelines set forth under the appropriate section of the attached Purchasing Procedures.
- ❖ The Town of Colonie Purchasing Department will maintain adequate documentation of all action taken in connection with each method of procurement. Such documentation shall include but not be limited to any and all pertinent Board resolutions, memoranda, written quotes, contracts and any other appropriate form of documentation.
- ❖ If the General Services Director finds a supplier to be an irresponsible bidder, bid notices shall not be sent to that vendor, however any vendor will be provided with the bid package if requested. Irresponsibility is determined by a vendor failing to adhere to the terms of a contract, having repeatedly made slow or unsatisfactory delivery of supplies or services or having been found by a court of competent jurisdiction to have engaged in unlawful employment or business practices within the previous twelve (12) months.
- ❖ When soliciting bids, a “General Instructions to Bidders” will be included with all specifications provided to suppliers. These general conditions will be incorporated into contracts awarded for the purchase of materials, equipment and services.
- ❖ Purchases shall be made under Town contract pursuant to all required Laws, through available state contracts (OGS), or Sub d 3 of the New York State General Municipal Law (GML)103 and 104b which allows purchases of materials, equipment or supplies, or to contract for services, other than services subject to article nine of the labor law, through any publicly bid and awarded contract in compliance with NYS GML law, whenever such purchases are deemed by the General Services Director to be in the best interest of the Town.

- ❖ Supplies used by various Town departments should be uniform whenever consistent with operational goals in the interest of efficiency and economy.
- ❖ No official or employee will be interested financially in contracts entered into by the municipality (as defined in Section 800 of NYS General Municipal Law). This also precludes acceptance of gratuities, financial or otherwise, as stated in the Town of Colonie Code of Ethics.
- ❖ The Town of Colonie will not be deemed responsible for any commitment made at the departmental level circumventing these procedures. If Town procedures are circumvented, disciplinary action may be taken.
- ❖ Salespersons are encouraged to visit the Purchasing Department prior to or in conjunction with initial, individual department contact.
- ❖ The policies and procedures set forth in this manual shall be annually reviewed by the Town Board.
- ❖ The unintentional failure to fully comply with the provisions of NYS General Municipal Law Sections 103 and 104-b shall not be grounds to void any action taken or give rise to cause of action against the Town of Colonie, the Purchasing Department, or any officer or employee thereof.

Purchasing Policy and Procedures

EMPLOYEES RESPONSIBLE FOR PURCHASING FOR THE TOWN BY NAME AND TITLE

PER GENERAL MUNICIPAL LAW SECTION 104-B (2) (F) THE TOWN IS REQUIRED TO INCLUDE IN THE POLICY AND PROCEDURES MANUAL THE LIST OF INDIVIDUALS BY NAME AND TITLE THAT ARE RESPONSIBLE FOR PURCHASING FOR THE TOWN.

Name	Title
Peter G. Crummey	Town Supervisor
Jill Penn	Town Councilperson
Rick Field Jr.	Town Councilperson
Daniele Futia	Town Councilperson
Melissa Jeffers	Town Councilperson
Jeff Madden	Town Councilperson

Alvin Gamble	Town Councilperson
Douglas Sippel	General Services Director
Andrew Clermont	Purchasing Assistant
Elizabeth Condon	Buyer
Julie Pfeiffer	Principal Clerk
Christopher Kelsey	Accounting Assistant
Ronald Monfils	Sole Assessor
Hope LaCrosse	Administrative Aide
Christian Ford	Senior Apprasier
E. Guy Roemer	Town Attorney
Jan Notaro	Confidential Secretary to Town Attorney
Rosemary Newton	Acting Personnel Officer
Amy Hodson	Principal Clerk
Wayne Spenziero	Building Department Manager
Joe Mahan	Senior Building Inspector
Lynn Gallant	Administrative Aide
Jennifer Kennedy	Community Development Program Manager
Julia Allen	Administrative Aide
Paul Sugrue	Emergency Medical Services Chief
Erin Kelly	Emergency Medical Services Deputy Chief
Robbie MacCue	Emergency Medical Services Assistant Chief
Carol Mahar	Principal Clerk
Matthew McGarry	Commissioner of Public Works
Thomas Romano	Public Works Operations Supervisor
William Shipley	Vehicle Maintenance Supervisor
Keyiera Hamilton	Principal Fleet Maintenance Clerk
Michele Matuszek	Administrative Aide
Kevin Franklin	Town Historian
Rosemary Newton	Human Resources Director
Tracy Pirri	Personnel Assistant
Phyllis Hallenbeck	Benefits Coordinator
Mary Falace-Mayr	Clerk of the Court
Paige Trance	Senior Clerk to Town Justice
John Frazer Jr.	Latham Water Superintendent
Daniel Corey Seaver	Water Engineer
Christine Horton	Administrative Aide
Suzanne Mauger	Purchasing Clerk
Evelyn Neale	Library Director
Kathleen Cook	Administrative Aide
Lisa Travis	MIS Director
Marilina Daniels	Application Analyst
Kirstin Smith	Application Network Specialist
Michael Biance	Computer Network Specialist
Robert Mateja	GIS Coordinator
Jimmy Onibokum	Network Administrator
Tara Booker	Typist
Jill Daly	Administrative Aide

Laura Archambault	Youth Services Specialist
Noel Gebauer	Golf Course Manager
Sean Maguire	Planning and Economic Development Director
Victoria Normandin	Administrative Aide
Michael Woods	Chief of Police
Robert Winn	Deputy Chief of Police
Jay Gerace Jr.	Deputy Chief of Police
Diana Blake	Administrative Aide
Tami Sherry	Pruyn House Administrator
E. Tucker Cox, Jr.	Sanitary Engineer
Karen Stroebel	Administrative Aide
Diane Ryan	Principal Clerk
Angelina Searles	Senior Resources Director
Carrie Blanchard	Senior Resources Specialist II
Mary Ellen Ives	Confidential Aide to Supervisor
C. Michele Zilgme	Receiver of Taxes
Kimberly Cuva	Deputy Receiver of Taxes
Julie Gansle	Town Clerk
Michele Turcotte	Deputy Town Clerk

QUOTATION AND BID REQUIREMENTS FOR PURCHASES OR LEASES OVER \$1,000

POLICY:

It is Town policy to ensure fair and consistent consideration of potential vendors offering services to the Town, and to meet State requirements for competitive bidding for goods and services required by the Town. Minimum requirements for Quotes and Bids are as follows:

Purchase and/or

Total Lease Amounts with a purchase option (Excluding Public Works Contracts)

Quote and Bid Requirements

\$0.01 - \$2,500

Department Does Price Check.

\$2,501-\$7,500

Three verbal quotes obtained and documented by the department in coordination with Purchasing.

\$7,501 – \$12,000

Three written quotes, documented by the vendor, obtained by the Department through the development of a specification provided to the vendors, after review of

quote document by Purchasing. Purchasing will post the quote document to BidNet.

\$12,001 - \$20,000 Three or more written quotes, documented by the vendor, obtained by the Purchasing Department.

Over \$ 20,000 Competitive public bid required.

Part of the Purchasing review is to be sure the Town does not exceed the aggregate bid limit.

The limits above may be adjusted based on the technical nature and history of the quote following a review by the Purchasing Department.

True Leases:

True leases are defined as leases without the option to purchase. As True Leases are exempt from the Competitive bid requirement, three written quotes will be required, unless the proposed lease is as the result of a National Cooperative Contract or other contract that has already been competitively bid, to insure the Town obtains the best value for the lease dollars spent. The total annual cost of the lease will be used to evaluate the quotes received in awarding the lease. For the purposes of this provision, leases should be closed-end, with agreed upon residual values and mandatory turn-in at end of lease. Lease documentation should include negotiated price, residual value and term and payment amounts.

Public Works Contracts (Material and Labor)

\$0.01 - \$5,000 Department Does Price Check.

\$5,001 -\$10,000 Three verbal quotes obtained and documented by the department in coordination with Purchasing.

\$10,001 - \$20,000 Three written quotes, documented by the vendor, obtained by the Department through the development of a scope of work and/or specification provided to the vendors, after review of quote document by Purchasing. Purchasing will post the quote document to BidNet.

\$20,001 - \$35,000 Three or more written quotes, documented by the vendor, requested by the Purchasing Department.

Over \$ 35,000 Competitive public bid required.

For all Public Works Article 8 project and Article 9 project over \$1,500. A General Contracting Agreement is required. Also a Department of Labor PRC regarding prevailing wage will be obtained and provided to the winning vendor at award by Purchasing.

Aggregate Amounts – In determining if an item for purchase meets the bid requirements, the Town shall consider the reasonable expected aggregate amount of all purchases of the same commodities, services or technology to be made within the twelve-month period commencing on the date of the purchase. Purchases of commodities, services, or technology shall not be artificially divided for the purpose of avoiding the requirement to competitively bid the item required.

In each case the requesting department should make every attempt to obtain required quotes as defined above. If after good faith effort to obtain the required quantity of quotes, the requesting department is unsuccessful, the requesting department should document the actions taken and may submit the requisition with the lower quantity of quotes.

After obtaining quotes and approvals as defined in the purchasing procedures, the purchase should be awarded to the lowest quote unless there is just cause for awarding the quote to an alternate vendor. If a *quote* is awarded to a vendor other than a low quote the requesting department must submit documentation to Purchasing explaining why the award should be given to an alternate vendor. This documentation must accompany the requisition and all steps in the subsequent approval process.

If a *bid* is awarded to vendor other than a low bidder the requesting department must submit documentation through board resolution explaining why the award should be given to an alternate vendor. This documentation must accompany the requisition and all steps in the subsequent approval process.

BEST VALUE

The Town Board seeks to exercise the local option set forth in § 103, Subdivision 1, of the New York State General Municipal Law, as amended by Chapter 608 of the Laws of 2011 and Chapter 2 of the Laws of 2012, which amendment authorizes the Town to award purchase contracts and contracts for services subject to competitive bidding under General Municipal Law § 103 on the basis of either lowest responsible bidder or “best value” as defined in § 163 of the New York State Finance Law. The “best value” option may be used if it is more cost efficient over time to award the good or service to other than the lowest responsible bidder if factors such as lower cost of maintenance, durability, higher quality and longer product life are taken into consideration.

The Town Board may award purchase contracts and service contracts that have been procured pursuant to competitive bidding under General Municipal Law § 103 by either lowest responsible bidder or best value.

The provisions of this chapter apply to Town Purchase contracts involving an expenditure of more than \$20,000.00 and Town contracts for services involving an expenditure of more than \$35,000.00 but exclude purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the State Labor Law and excluding any other contract that may in the future be excluded under state law from the best value option. If the dollar thresholds of General Municipal Law § 103 are increased or decreased in the future by the State Legislature, the dollar thresholds set forth herein shall be deemed simultaneously amended to match the new General Municipal Law thresholds.

Goods and services procured and awarded on the basis of best value are those that the Town Board determines will be of the highest quality while being the most cost efficient. The determination of quality and cost efficiency shall be based on objectively quantified and clearly described and documented criteria, which may include, but shall not be limited to, any or all of the following: cost of maintenance; proximity to the end user if distance or response time is a significant term; durability; availability of replacement parts or maintenance contractors; and longer product life; product performance criteria; and quality of craftsmanship.

Whenever any contract is awarded on the basis of best value instead of lowest responsible bidder, the basis for determining best value shall be thoroughly and accurately documented.

PROCEDURES

Purchase or Lease from \$2,501 to and including \$7,500 or Public Works Contracts from \$5001 to \$10,000 – Documented Quote Procedures

1. The Department Head confirms the availability of budgeted funds for the item and/or service and the need
2. If budgeted funds are available and item and/or service is within the spending ranges and not covered under an existing Town Contract, the Department Head checks for State or National Cooperative Contract.
3. If a State or National Cooperative Contract does not exist the Department Head or designated employee in coordination with Purchasing, investigates three sources for the item and/or service.
4. Department in coordination with Purchasing, must document the three verbal quotes for the item.
5. Quote documentation must include the vendor name, phone number, contact name, the item and/or service, the amounts, the date of the quotes, and the person who obtained the quote.
6. Documented quotes should be signed by the person obtaining the quotes. When quote or bid requirements are fulfilled, the Department Head then selects the vendor based upon lowest price of the three quotes.
7. The documented quotes must be submitted to Purchasing along with a hard copy of the Standard Purchase Requisition.

Purchases or Leases from \$7,501 to and including \$12,000 or Public Works Contracts \$10,001 to \$20,000 – Written Quote Procedures obtained by Department

1. The Department Head confirms the availability of budgeted funds for the item and/or service and the need
2. If budgeted funds are available and item and/or service is within the spending ranges and not covered under an existing Town Contract, the Department Head checks for State or National Cooperative Contract.

3. If a State or National Cooperative Contract does not exist the Department Head or designated employee prepares a specification and/or scope of work for the item of services required.
4. Specification and/or scope of work is provided to Purchasing for review. Purchasing will post the quote specifications and/or scope of work on the current electronic bid distribution service in use at the time.
5. Department provided specification and/or scope of work to multiple vendors to obtain at least three written quotes for the item or service.
6. Quote documentation must be on vendor's letterhead and include the vendor name, phone number, contact name, the item and/or service, the amounts, the date of the quotes, and the person who obtained the quote.
7. When quote or bid requirements are fulfilled, the Department Head then selects the vendor based upon lowest price of the three quotes.
8. The documented quotes must be submitted to Purchasing along with a hard copy of the Standard Purchase Requisition.

Purchases or Leases from \$12,001 to \$20,000 or Public Works Contracts \$20,001 to \$35,000 – Written Quote Procedures obtained by Purchasing

1. The requisitioning Department Head e-mails Purchasing to request quotes for the purchase or lease specific goods or services within the value ranges listed above. In the e-mail, the Department Head defines the specifications for the item and/or service and suggested vendors to include in the quote solicitation.
2. Purchasing documents the request for quotation from the information supplied by the Department Head. If additional information is required, the Purchasing Agent will contact the requisitioning Department Head to add the necessary information.
3. When complete, the Purchasing Agent submits the request for quotation to a minimum of three vendors for purchases or leases of \$20,000 and under or Public Works Contracts of \$35,000 and under.
4. The Purchasing Agent receives responses to the quotation request, tabulates the combined results, and forwards copies of vendor responses, including proposals to the Department Head.
5. The Department Head reviews the vendor responses and selects the vendor from whom to acquire the goods and/or services.

6. The Department Head then notifies Purchasing of the chosen vendor in writing. Purchasing creates and mails an award letter to the chosen vendor.
7. The Department Head then creates a standard purchase requisition, submitting the quotation responses with the Purchase Requisition.
8. For Public Works Contracts a formal Town of Colonie General Contracting Agreement is required, preceding the Purchase Order.
 - a. The requesting Department Head completes a Town Board Agenda Request for the Town Board to approve the General Contracting Agreement.
 - b. Following Town Board Approval, the Town Attorney creates the document with input from the Department Head. Once approved by all parties, the Agreement is sent to the vendor for signature.

Purchasing and Leases \$20,001 and above or Public Works Contracts of \$35,001 or above – Formal Public Bid Procedures

1. For new purchases of \$20,001 and above or Public Works Contracts of \$35,001 and above the Department Head creates a “Town Board Agenda” form and a document defining the specifications for the purchase and rationale.
2. The Department Head then forwards both documents to the required approvers. Approvers include DPW/Engr. or MIS depending on the nature of the Purchase and all of the following: Comptroller, Director of General Services, and Town Attorney.
3. The Town Attorney submits the signed “Town Board Agenda” form to the Town Board and monitors the response of the Town Board.
4. The Town Attorney notifies Purchasing and the Department Head in writing of the Town Board’s response.
5. If the Town Board approves the Purchase, Purchasing, working with the requesting department will prepare the bid document and legal notice.
6. Purchasing coordinates the submission of the legal notice with local papers.
7. Purchasing also distributes the bid document to vendors by email if possible and posts the bid document on the current electronic bid distribution service in use at the time.
9. For bid produced and administered by outside engineering or architect firms, Purchasing shall have the opportunity to review and offer changes to all bid documents produced on behalf of the Town of Colonie. Once approved

Purchasing shall post the legal notice for this bid on the current electronic bid distribution service in use at the time.

10. Upon receipt of Bid responses, the Purchasing Agent tabulates responses and forwards copies of the responses and tabulation results to the requesting Department Head.
11. The Department Head reviews bid responses and selects the proposed vendor to award the purchase.
12. The Department Head then fills out a "Town Board Agenda" form to request formal authorization for the specific purchase. The "Request for Item to be placed on Town Board Agenda" form along with bid responses is routed to the same approvers as the preliminary form used to authorize the bidding process.
13. The Town Attorney submits the signed "Town Board Agenda" form to the Town Board and monitors the response of the Town Board.
14. The Town Attorney notifies Purchasing and the Department Head in writing of the Town Board's response.
15. If the Town Board approves the purchase, the Purchasing creates and mails an Award Letter, notifying the vendor of the approval for the Purchase.
16. If the purchase is approved, the Department Head creates a standard purchase requisition defining the terms of the purchase and specific items and services.
17. For Public Works Contracts the Town Attorney will prepare a General Contracting Agreement or contract for the work which they will provide to the awarded vendor. This step shall be completed prior to the department issuing the purchase requisition.

PROCUREMENT OF PROFESSIONAL SERVICES AND THE ISSUANCE OF REQUESTS FOR PROPOSALS

POLICY:

The procurement of a Professional Service is an exception to the Competitive Bid provision of the New York State General Municipal Law. However, as the use of professional services involves the expenditure of public funds, the Town will endeavor, where possible, to seek competition for those professional services. The use of a Request for Proposal is the preferred method to seek competition for these professional services. While not every professional service agreement will be entered into as the result of an RFP, the determination of when an RFP is required shall be made as follows:

1. The General Services Director in conjunction with the Town Attorney's Office will determine if a service is classified as a Professional Services and eligible for the exemption under General Municipal Law.
2. If the service is determined to be Professional, the Department Head, the department Attorney liaison, and the General Services Director will determine if an RFP shall be required to enter into this agreement.
3. If the determination is made that seeking competition is the best interest of the Town, the Town will determine if a department issued RFP or a Purchasing Department issued RFP is the best course of action of this professional Services.

For the purposes of this policy, the Town will reference two types of request for proposals: Department Issued and Purchasing Department Issued. Both will serve the same purpose:

1. The Town can review up to date services and technologies available in the market place.
2. Several different approaches to accomplish the request can be evaluated.
3. Service Providers must compete for the Town's Business. This may lead to better service and lower cost to the Town.

Department Issues RFP – A request for proposal issued by the requiring department. The document shall provide the scope of services required along with any special or technical needs. The document is issued and received by the Department. Town Board approval of the resulting contract will be required. A copy of the department issued RFP, tabulation of the responses, and a justification for award shall be part of the request for Town Board approval.

Purchasing Department Issued RFP – A formal request for proposals issued by the Purchasing Department. This RFP shall be issued as follows:

1. Purchasing will provide a basic format for the Request for Proposal document to the initiating department. The department will be required to supply the specifications for the service requested in the RFP. If the specifications are rigorous and technical in nature, the Town may subcontract the RFP development to a third-party firm that specializes in preparing such documentation.
2. The final draft of the RFP document shall be approved by the Town Attorney and the General Services Director prior to distribution.
3. Distribution of the RFP shall be handled in the same manner as a competitive bid, with the Purchasing Department advertising the RFP, distributing the RFP packages, receiving the responses, tabulating the companies that provide a proposal, and awarding the RFP.

4. The initiating department shall be responsible for the review of the proposals and the recommendation of an award.
5. The Town Board shall approve the award of the RFP and any resulting contract.

A Request for Proposal (RFP) is a descriptive document that explains in detail the requirements and terms associated with the specific services request by the Town for service providers. All request for proposal documents will include the following information:

- Statement or Scope of work requested.
- Any requirement unique to the request.
- Any special condition unique to the request.
- A method of award.

The use of the RFP process may be combined with the competitive bid or quote process if the total transaction involves a hybrid of professional services and other services or professional services and the acquisition of goods. If the primary or predominant part of the transaction is the professional service, the use of the competitive bid or quote process may not be required. Purchasing will make the final determination in conjunction with the Town Attorney's office as to the need for an additional process.

PROCEDURE:

<i>Action Steps:</i>
1. Recognize the need for a budgeted professional service that is not under Town Contract. 2. Contacts the General Service Director to review the need and confirm the service is an exempt professional service. 3. Meet with the General Services Director and Town Attorney's Office to determine if seeking competition is in the best interest of the town. 4. If Department Issued RFP is authorized, issue the RFP request and provide results to General Services to review. Complete Town Board Agenda Request form for Town Board Approval. 5. If a Purchasing Issued RFP is authorized, follow the remaining steps. 6. Request Town Board Authorization to advertise for the Request for Proposal. (if required) 7. Provide specifications for service requested. 8. Review responses and recommend an award.

9. Request Town Board Authorization to award the RFP.
1. Purchasing Issued RFP's are handled in a similar manner as an open competitive bid: Advertised in the Official Newspaper, Opened at a specific time and place, Tabulation of proposers name only, and awarded by the Town Board.
1. The Town Attorney will provide guidance to the Department Head related to the RFP process and the end results. 2. Whether subcontracted or completed by the Department, the Town Attorney will review the RFP document to ensure appropriate wording to meet Town legal requirements and appropriate risk management for the Town. 3. A contractual agreement must be created and signed by both the Town and the Service Provider. This agreement confirms the terms and conditions of the service. 4. The agreement may be initiated by the Department Head or the service provider, then forwarded to the Town Attorney for review.

CREATING AND RECEIPTING AGAINST AN OPEN PURCHASE ORDER

POLICY:

Open purchase orders are intended for repetitive low dollar purchases. They are intended to be used for vendors with whom the Town has accounts. They are not intended to reimburse Town Employees who have acquired and paid for goods and services using their personal credit cards or cash. See Time and Expense Policies and Procedures for this type of reimbursement. To qualify for an Open Purchase Order, purchases must be low dollars per unit and in total. Each requisition and invoice is not to exceed \$200 and larger dollar purchases may not be divided into \$200 increments to fall below the \$200 limit. Department Heads have the authority to acquire miscellaneous items and services, but all appropriations must be budgeted, and if not must have prior approval from the Comptroller regardless of dollar limitations.

Procedures

1. A Town Employee identifies the need for miscellaneous items or service and notifies Department Head.

2. The Department Head confirms the availability of budgeted funds for the item and/or service and the need. If budgeted funds are available and item and/or service is repetitively purchased and under \$200, the Department Head authorizes designated employee to obtain the item and/or service from an agreed upon, pre-approved vendor with which the Town has an account. In anticipation of purchases with these approved vendors, the Department Head or designated Department Employee will create an Open Purchase Requisition for the vendor, with a single line item for \$1.00. If the Vendor ID is not on file, the department is to contact Purchasing. A general description is written in the first line of the requisition, with \$1.00 for the unit price, 1 for the qty, and \$1.00 for the line amount. The Appropriation-Fund code is written in the "G/L Account" field.
3. Obtains authorization to obtain the item and/or service from the Department Head.
4. Obtains the item and/or service from the pre-authorized vendor and a detailed invoice defining the specific item and/or service performed. The receiving employee is required to show official Town identification card to the pre-authorized vendor. The receiving employee should verify the accuracy of the invoice and resolve any discrepancies prior submitting for payment, then forward the invoice to the Department Head.
5. The Department Head or designated employee within the department receives invoices from the Town Employee and updates the previously created Open Purchase Requisition to cover the invoices accumulated from the vendor for each two-week time period (or shorter if no additional invoices are anticipated from the vendor during the period). The requisition is then updated with the invoice information. Replacing the single line entered earlier, each invoice becomes a line item on the requisition. The invoice number is written in the description for items and services covered by the invoice is written in the "Item Description" line. When the requisition is complete and checked for accuracy, the Department must change the "Order Date" field ID to the *current date* and save the requisition. The Department then forwards the invoices and the requisition to Purchasing.
6. Purchasing receives the invoices and requisition from the Department Head. If the total value of the requisition is less than \$200, Purchasing posts the Purchase Order (PO). If the value of the requisition exceeds \$ 200, the Purchasing Agent must wait for Deputy Comptroller or Comptroller approval written for that specific purchase requisition on the "Unapproved Requisitions in Excess of \$200" report before posting the Purchase Order.
7. Once the Purchase Order is posted, Purchasing posts a receipt in Great Plains for the value of each invoice against the corresponding line item on the Purchase Order. The Purchasing Agent then verifies that all line items are received and that the PO is complete. At that point the Purchasing Agent sends a hard copy of the PO and the invoice(s) to the Comptroller's office for vouchering in Accounts Payable.
8. The Comptroller's Office reviews any requisitions over \$200 to confirm funding.

EMERGENCY PURCHASES:

POLICY:

All purchases of goods and services should be completed using an approved Purchase Order. However there are times when this is not possible due to an emergency.

Emergency requisitions are to be used to acquire parts for repairs or for services when there is an emergency need which would have a direct impact on the life, health and public safety to the general public as defined in General Municipal Law § 103(4). Once a situation has been identified as an emergency, parts for repairs and services can be acquired without going through normal procurement approvals and procedures. As soon as practical after the situation has been resolved, a requisitions or requisitions shall be entered into the Great Plains system for all emergency purchases made. The requisitions will be reviewed and approved as necessary and the Purchase Orders returned to the department. All invoices must be approved by the department manager and marked in red ink as an "emergency". The Town Board Resolution declaring the Emergency shall be attached to all emergency invoices. Emergency appropriations may be unbudgeted, or in excess of budgeted funds.

Procedures:

1. Department declares an Emergency Situation per GML 103(4)
2. Purchases of goods and services are made to resolve the emergency situation.
3. As soon as practical after the situation has been resolved, requisitions for the purchases of said goods and services are entered into the Great Plains system.
4. Requisitions are reviewed and approved and Purchase Orders are sent to the Department.
5. All related invoices are approved by the Department Head and marked in Red Ink with "Emergency". The Emergency Town Board Resolution shall be attached to the emergency invoices. Any differences between the original requisition and the invoice such as amounts, fund numbers, quantities are updated in the Great Plains system by the **initiating** department and sent to Purchasing for processing.

Straight Claims vs. Requisitions and Purchase Orders

POLICY:

Straight claims are forms that are submitted with vendor invoices to request payment under particular procurements. Use of a Straight Claim form does not require purchase orders. In most cases the use of a Straight Claim form does require a current, signed

contract awarded from the Town of Colonie to the vendor. As with all purchases, all appropriations must be budgeted and if not must have prior approval from the Comptroller regardless of dollar limitations.

Procedure

Straight Claim forms are to be used for invoices for the following procurements:

1. Utility Payments – National Grid, Electric Supply, Natural Gas Supply, Water and Sewer payment, telephone including cell phone invoices.
2. Tax Bill Payments
3. Public Works projects where an engineering firm is managing the project.
4. Professional Service payment such as Attorney, engineer, Auditor.
5. Monthly Equipment Rental payment.
6. Subscriptions and membership payment and renewals
7. Postage expenses
8. Grant Payment to outside entities and reimbursement of clients
9. Annual Assessments/fees from Federal, State, County or other government agencies.

Straight Claims shall not be used for the following and the normal Purchasing System shall be used:

1. Any invoice to be processed where a requisitions has already been opened in the Great Plains system.
2. Public Works projects bid by the Town Purchasing Department and managed by Town personnel.
3. Purchases made through State Contracts, Cooperative Contracts, and purchases made as the result of Bids and quotes.
4. Legal notice publications.
5. Routine services such as industrial gases, fuel, road salt, cleaning supplies, etc.

Claim forms are processed directly through the Comptroller's Office and do not need Purchasing review. When practical the claimant certifications should be completed before the form is delivered to the Comptroller's Office.

Disposal of Town Surplus Property

POLICY:

The policy to dispose of surplus property shall meet the following criteria:

1. The items will be disposed of in the most cost effective and environmentally responsible manner possible.
2. Every effort shall be made to get the best return to the Town on any property to be disposed of that may have significant residual value.
3. Items to be declared surplus by the Town Board include those items with a value of \$1,000 or more. These items will generally be auctioned off to the public to obtain the best value for the Town.
4. Items considered to have a value of under \$1,000 will be disposed of in a manner determined by the General Services Director.

PROCEDURE:

1. The Department is responsible for determining that an item is surplus and no longer needed by the department.
2. For items on the Department Fixed Asset Report, please contact the Town Comptroller Department to determine remaining book value. See Attached Fixed Asset Disposition form.
3. If the item is a motor vehicle or a large piece of equipment please notify the Fleet Maintenance Supervisor of the fact this item is now surplus.
4. The Fleet Maintenance Supervisor will review the maintenance records for this item and determine if it is suitable to be offered to another department that may have a need for the item.
5. If the item is deemed not needed by another department, or not suitable for the Town to keep, Fleet Maintenance will work with General Services on the appropriate disposal method.
6. If the surplus item is office equipment, furniture, or other similar items, please notify the General Services Director that you have surplus items. Information needed about the items includes the item description, age, working condition, any value estimate, and your recommendation as to disposition.

DISPOSAL PROCESS:

Public Auction: The items that have a value of over \$1,000 will generally be auctioned to the public. This auction shall be administered by the General Services Department in cooperation with Fleet Maintenance for vehicles and equipment. All items to be auctioned shall be submitted for approval to the Town Board prior to the beginning date of the auction.

Open Competitive Bid: Some items might be best disposed of through the formal open competitive bid process. For these items all normal bid processes will be followed.

Vehicle Buyers: Obtain quotes from companies that are in business to buy used vehicles such as CARVANA, CarMax, for example. If this method is used the Town will attempt to obtain 3 quotes to get the best offer for the vehicle.

Vehicle Auctions: At the recommendation of the Fleet Manager, offer the vehicle for sale through a local vehicle only auction if it is his belief the Town can obtain a better price than other methods.

Donation: Donation to another municipality or political subdivision is another option the Town Board may consider.

Sale to another Municipality: Surplus and second-hand items may be sold to other political subdivisions or public benefit corporations within the State.

Disposal: Item valued at less than \$1,000 may be disposed in the most cost effective, environmentally appropriate manner as determined by the General Services Director. The available methods include proper disposal as trash, scrap disposal through the Landfill process, or junked. Any items disposed, scrapped, or junked will be itemized and that list provided to the Town Comptroller's office for proper record keeping. The manner of disposal shall be indicated for each item. If the item is unique or there is an indication that it would be better disposed through auction or donation, Town Board approval shall be requested to proceed with that disposal method. If the item is valued at \$1,000 or more, but has no useful remaining life, Town Board approval shall be obtained prior to the item's disposal.

Computer Disposal: Any computer items deemed to be surplus and to be disposed must be coordinated through the MIS Department. Special consideration shall be taken to

remove any data, software, or propriety information prior to disposal. MIS shall coordinate the actual disposal with General Services.

Town of Colonie Apprenticeship Program Policy

Policy:

In accordance with Town of Colonie Town Board Resolution No. 144 for 2015 of February 26, 2015 and Section 816-b of the New York State Labor Law, contractors and subcontractors of Town construction contracts of \$750,000 or more shall have in place agreements providing appropriate apprenticeship training programs approved by the Commissioner of the Department of Labor for the type and scope of work to be performed before the contracts are let. These agreements shall conform to the procedures and requirements set forth in Section 816-b of the New York State Labor Law.

The Apprenticeship policy is administered through the Town Procurement Policy. However the ultimate authority as to compliance with the policy is with the Commissioner of Public Work or his designee and the Town Attorney's Office.

The Apprenticeship policy includes the following provisions and requirements:

- All contractors and their subcontractors on contracts for public works projects of \$750,000 or more must comply with this policy regardless of the subcontractor's actual dollar amount of work provided.
- Any subcontractor used on the project must be to provide a trade or service not provided by the contractors own work force for purposes of this policy and compliance verification.
- Compliance with the policy includes providing proof of compliance for all trades to be employed on the project. Determination of the trades to be included is at the sole discretion of the Commissioner of Public Works or his designee and the Town Attorney's Office.
- For Town bids issued by Town contracted professional firms, proof of compliance with the apprenticeship program policy will be provided to the Town by the professional firm along with any recommendation letters. The Town reserves the right to request additional verification of program compliance as necessary.
- In call cases, such apprenticeship program must be specific to the type and scope of work that is being performed and must have a graduation rate of at least thirty percent (30%) as determined by the New York State Department of Labor.
- For Bids administered by the Town directly, proof of compliance with the apprenticeship program shall be supplied by the apparent low bidder to the

Town Purchasing Department within two (2) business days of the bid tabulation being completed and available to the public. The Town reserves the right to request additional documentation to verify compliance. All requested information must be provided within two (2) business days from the request.

- Failure of the low bidder to provide acceptable documentation within the time frames above will be deemed non-compliance with the program and the Town will move to the next low bidder. That bidder will have two (2) business days to provide acceptable verification.

Acceptable forms of compliance with the apprenticeship program are as follows:

1. Contractor or subcontractor having their own Department of Labor approved program for the trades to be used on the project. Verification of the approved program(s) of the New York State Department of Labor website is acceptable proof of compliance.
2. Contractor or subcontractor who is a direct signatory with a labor union that has a Department of Labor approved program for the trades to be used on the project. Verification of compliance must include the following:
 - a. Letter on company letterhead from Contractor or subcontractor outlining signatory status with a labor union and trades covered by that agreement.
 - b. Documentation from the labor union identified confirming signatory status and access to labor union apprenticeship program.
 - c. Verification from New York State Department of Labor website of an approved program(s) for the labor union.

Any questions regarding this policy or compliance requirements shall be directed in writing to the General Services Director at the following:

Town of Colonie
Purchasing Department
534 New Loudon Road
Latham, NY 12110
Or
purchasing@colonie.org

General Information

Purchases of supplies and services involving an estimated overall annual expenditure by the Town of over \$20,000 of like goods or any single public works contracts over \$35,000 will be awarded only after public advertising and solicitation of formal bids, or use of other appropriate means as allowed by law. This includes one-time purchases, a contract or blanket purchases. Excluded from this are professional services, which are secured through a Request for Proposal.

Legal notices are published in the official Town newspapers, informing the public of the products or services being bid, listed on the Town website, as well as being posted online at the Empire State Procurement Group site: <http://www.empirestatebidsystem.com/>

Where formal bidding procedures are not required by law and/or resolution, pricing will be solicited by the Requesting Department or Purchasing Department pursuant to the procedure set forth in Section 104-b of General Municipal Law and this document.

The only exceptions are for procurement made pursuant to General Municipal Law, Section 103(3) (through County contracts) Section 103(16) (through National Cooperatives) or Section 104-b (through state contracts); State Finance Law, Section 175-b (from agencies for the blind or severely handicapped); Correction Law, Section 186 (articles manufactured in correctional institutions); and approved schedules through the Federal GSA program.

Any request to award a quote or bid to any vendor other than the lowest responsible bidder must include documentation by the requesting department with reasons and justification for the award. The documentation shall be reviewed by the General Services Director in counsel with the Town Attorney's Office prior to any award being made.

In certain situations, solicitation of alternative proposals or quotes is not practical. These may include: emergencies, true leases and sole source situations and combinations of professional services/purchases. In each of these cases, the requesting department, Purchasing, and the Town Attorney's Office shall analyze, justify and clearly document the reasons behind the award. No awards shall be made before contacting the Purchasing Department.

Sole Source & Single Source

Sole source procurement is an exception to the general rules and policies stated herein governing the procurement of goods and/or services. Sole source procurement may only be used in those rare cases where the goods or services sought and required are manufactured, sold or performed by only one entity and/or individual.

Generally, this will only apply in the following situations:

1. Only one company makes and sells a certain good or provides a certain service.
2. Only one company can service or maintain the equipment without voiding the warranty. (Note: This only applies during the warranty period. The sole source exemption is not available after the warranty expiration. After warranty expiration, repairs and maintenance must be bid.)
3. The Town is leasing equipment like postal machines or copiers that have a certain type of consumable component (e.g. ink cartridges) that must be used to avoid breaching a warranty or maintenance provision of a lease.
4. It is a service performed by companies that traditionally have territories (e.g. cable TV or certain types of equipment dealerships).
5. Software licensing, maintenance, and/or installation contracts specific to the software being purchased, inclusive of upgrades or improvements to existing software systems.

In determining whether a purchase qualifies for a Sole Source exemption, the procuring department must document, at a minimum:

1. The unique benefits to the Town of the product or service as compared to the other products or services available in the marketplace;
2. That no other product or service provides substantially equivalent or similar benefits;
3. That considering the benefits received, the cost of the product or service is reasonable in comparison to other products or services in the marketplace; and
4. That there is no possibility of competition from competing dealers or distributors.

Sole Source purchases will be reviewed by Purchasing and approved based on the written justification from the Requesting Department responding to points (1) through (4) above and supporting documentation on the letterhead of the entity providing the goods, equipment, commodity or service that they are the sole source.

Emergency Purchase

What is considered an emergency? GML 103 (4) defines it as “a public emergency arising out of an accident or other unforeseen occurrence or condition, whereby circumstances affecting public buildings, public property or the life, safety or property of the inhabitants requires immediate action”. Lack of anticipation or planning cannot be deemed as a cause for declaring an emergency.

A true emergency does not exclude the need for securing competitive pricing, only the formal bidding process. Purchasing should be contacted as soon as the emergency need is identified to secure pricing.

Professional Services

Professional Services are not subject to competitive sealed bidding requirements, but are subject to the guidelines of GML 104-b for competitive pricing to be obtained for these services. (See Purchasing Procedures section)

Purchase Requisition

The Purchase Requisition provides the means of initiating the Purchase Order process for goods and services. The Purchasing Department is designated to review and process requisitioners' requests; it is the individual department heads responsibility to insure that expenditures are within the budgetary appropriations and that the proper department account is charged.

The Comptroller's Office and the Purchasing Department must approve the funding of every requisition prior to it being converted to a Purchase Order. Purchasing approved requisitions up to and including \$200.00. The Comptroller's Office approves all over \$200.00.

Should there be insufficient funds available departments must do a budget transfer and secure all the necessary approvals before the order can be processed.

Preparation:

The requisitioning department will enter the Requisition on the Town Great Plains Purchasing software system.

If the department has a definite reason for ordering from a specific vendor it should be noted in the comments, the Purchasing Department will make the final decision as to price and vendor after reviewing the requisition and consulting with the using department. Adequate documentation shall also be provided with all requisitions, such as any received quotes, references and full descriptions of the items/service being ordered, so that Purchasing may procure the desired items/service in a timely fashion.

Planning

Anticipate your needs! Once you have determined what you need, within the limitations of your budget, contact purchasing to help you develop the specifications for the quote or bid to get the best value possible for the expenditure of tax dollars.

The key is time; turnaround time is dependent on many factors ranging from the complexity of the specifications, and the need for a pre-bid meeting and addendums to the number of bids and quotes currently in process with Purchasing.

Prepayments

Town of Colonie takes the position that unless absolutely necessary, that prepayments should not be made using Town funds.

Contact the Purchasing Department to assist you in making the purchase.

Purchase Orders

The purchase order provides a formal document authorizing the purchase of goods and services as well as the necessary authority to pay vendor claims and proof of tax-exempt sales. Purchase orders are prepared by the Purchasing Department upon receipt of a **complete** purchase requisition with all the necessary documentation such as contracts, quote, funding, etc.

The Purchasing Department verifies the following before issuing a purchase order:

1. Type of purchase requested
2. Requisitioning department/ship to location
3. Vendor information
4. Contract/Bid/quotation information
5. Comments/special instructions
6. Description of goods and services being ordered
7. Quantity/unit of measure
8. Unit price/extension and total cost
9. Fund Number(s)

The Purchasing Department will confirm the best method of procurement upon receipt of a requisition. If available, a current Town bid, NYS contract or available piggybacking options will be used.

With very few exceptions, a purchase orders must be completed before a purchase is made.

If at any time a department finds they will require a competitive bid for a particular product or service, they should notify the Purchasing Department to allow time for specifications to be developed and the formal bid process to be completed, to meet their anticipated needs.

Open Purchase Orders

An open purchase order is created for products or services that are purchased on an “as needed” basis from a vendor throughout the year where the dollar value will vary for each purchase and an established contract is in place. These are issued monthly as needed and the dollar amounts are limited to \$200.00 per department. The money for an Open Purchase Order is not encumbered until a receipt transaction is entered into the order

Departments are responsible for providing the open purchase order number to the vendor and verify that the number also appears on the documentation sent to Purchasing for payment processing.

Emergency Purchase Order

The Purchasing Department will **not approve** an emergency purchase order when the purchase is not justified, where the purchase is being made to circumvent established procedures, or where there is a lack of proper planning.

Receipt and Payment of Goods and Services

Upon receipt of goods and services, the department confirms quantity or completion of the service. As standard business procedure, all Town vendors are entitled to prompt payment; therefore receipts should be processed on a day-to-day basis.

Delayed Deliveries and Inferior Material Received

Purchasing endeavors to get departments the right material and on time. There will be occasions when inferior goods or services are received or they are not received in a reasonable amount of time. If this should occur you should report the problem to Purchasing as soon as possible. This can be done via email or phone, remember to include the vendor name, PO Number, the problem you have with the order and what you have done thus far to attempt to correct the situation.

Purchasing will contact the vendor after the receiving department has tried to resolve the issue and try to come to a resolution of the problem; if necessary the Town Attorney's Office will be contacted for assistance.

Department of Labor- Notice to Withhold Payment

On occasion the New York State Department of Labor, Bureau of Public Works upon receiving complaints for non-payment of prevailing wages shall direct the Town to withhold monies due to a vendor. The original notice is forwarded to the Comptroller's Office; a copy is kept in Purchasing and a copy forwarded to the Town Attorney's Office. These monies are held until notification is received from the Department of Labor on how they are to be disbursed.

Competitive Bidding

1. AGGREGATE PURCHASES OF LIKE ITEMS IN A 12 MONTH PERIOD WHICH ARE IN EXCESS OF \$20,000 USED BY THE TOWN
2. PUBLIC WORKS CONTRACTS EXCEEDING \$35,000 EACH

General Municipal Law Sections 103 and 104-b require annual purchase contracts exceeding \$20,000 and public works contracts exceeding \$35,000 be awarded to the lowest responsive/responsible bidder, or bidder offering the “Best Value” bid meeting the intent of the specifications after public advertising requesting submission of sealed bids.

In determining the necessity for competitive bidding, the **aggregate cost** of like items or commodities estimated to be purchased Town wide in a 12- month period are considered. (The 12 months beginning with the date of the first purchase)

The using department(s) in conjunction with the Purchasing Department shall prepare bidding specifications; all bids shall include a non-collusion certification and indemnification agreement and all other documents required by General Municipal Law.

Formal bids/quotes containing a renewal clause shall clearly state the original term and any possible renewals terms if mutually agreeable by the vendor and the Town of Colonie.

The advertisement for bids shall at a minimum contain a description of the goods and/or services being solicited, a statement of the time and place where all bids will be publicly opened and read, the time and place of any pre-bid meetings and a description of where and how bid documents may be obtained. All bid openings will be conducted at a public meeting and all interested parties may attend.

Plan holders lists shall not be released prior to a bid opening as this may adversely affect the bids received and/or encourage collusion. Any requests received by a Town department for this information are to be directed to Purchasing. No exceptions are made to this policy.

After the public opening of a sealed bid a tabulation sheet shall be prepared recording all pricing as submitted by the responding vendors. Purchasing shall review the bid responses and prepare a bid tabulation. This along with the copies of the bid responses and all supporting documentation needed to evaluate the bid responses shall be forwarded to the using department for review and award recommendation. Once the using department and the Purchasing Department are in agreement as to the responsive/responsible or best value vendor, the using department will create a Town Board Agenda Request Form for the Town Board to make the award.

If during the evaluation of the bid results it is determined not to proceed with a bid award, the using department shall prepare a Town Board Agenda Request form to reject all bids. New York State Comptrollers opinion 297 requires an acceptance or rejection of

formal sealed bids as they are a legal binding offer and some action must be taken by the authorizing Board

All renewals shall be coordinated through Purchasing and must be submitted to the Town Board for final approval.

Agreements and Contracts for multi-department use are handled by Purchasing and are submitted to the Town Board for approval.

Bid Approval Process

Bids for goods and services will be awarded by Town Board resolution after the following conditions are met:

1. Sufficient appropriations are contained within the departments' current budget (or budget transfer has been completed)
2. The department head or their designated representative and the Purchasing Director have certified in writing that the bids were received and meet the intent of the specifications
3. The award is made to the bidder submitting the lowest responsive and responsible bid per specifications or the bidder offering the "Best Value" bid that meets the bid specifications.
4. The using department shall document the rejection of any low bid deemed non-responsive or non-responsible. The using department shall attach a copy of said documentation to the Town Board Agenda Request Form and a copy shall be supplied to Purchasing. Said documentation shall be included in the bid file.

Conflict of Interest

Any Town employee who has, will have, or acquires an interest in, any actual or proposed contract with the Town of which he/she is an officer or employee, shall publicly disclose the nature and extent of such interest in writing as part of the Town Of Colonie Ethics disclosure as soon as he/she has knowledge of an actual or prospective interest. **If an officer or employee has a reason to believe that he/she may have a conflict of interest, the office of the Town Attorney should be contacted immediately.**

Public Works Contracts

How do you define a “Public Works Contract”? Any time an item or project involves labor or both materials and labor (other than simple delivery of goods) it qualifies, such as contracts for construction, demolition, remodeling, maintenance, painting, paving and repair contracts.

When do I need prevailing wages? Whenever you employ laborers, workmen or mechanics you need to pay prevailing rates according to Article 8 and 9 of the New York State Labor Law, no matter what the dollar amount. Certified payrolls are required before payment is authorized and copies are to be kept on file by the Town Attorney’s Office.

Certificates of Insurance

Town of Colonie is “self-insured” and for that reason we maintain evidence of vendor insurance, with ACORD forms on file for vendors who provide services to the Town. Depending on the work performed there are various categories of coverage and dollar levels required.

Before the Town can enter into a contract with a vendor, valid insurance forms must be on file; this includes proof of workers compensation and disability forms as required by New York State Workers Compensation and Disability Laws.

Standardization

General Municipal Law Section 103 makes it possible for the Town to standardize on a particular type of material or equipment. A resolution approved by at least three-fifths majority of the Town Board, shall state that for reasons of efficiency or economy there is a need for standardization.

The resolution shall contain a full explanation supporting such action.

The adoption of such a resolution does not eliminate the necessity for conformance to the competitive bidding requirements. Standardization, restricts the purchase to a specific model or type of equipment or supply, but does not limit the vendors it can be purchased from.

Standardization should be used very sparingly and only after careful consideration of the ramifications to future purchases and maintenance costs as this tends to reduce or in some cases eliminate completely competition thus costing the Town more than it may save by standardizing.

Fixed Asset Management System

The purpose of the fixed asset management system is to establish proper procedures for monitoring the movement of fixed assets to maintain accurate reporting of asset values as required by NYS Audit and Control.

General Town Property

The Town Board gives the Purchasing Director the responsibility not only to purchase, but also to dispose of and/or transfer supplies, materials and equipment.

Each department head has the ultimate responsibility to conduct and maintain the individual inventory pertaining to that department. It is also the responsibility of the department head to evaluate on a continuing basis the suitability and need for materials, supplies and equipment. If they should become obsolete by reason of age, wear or technical advancement or should become surplus, unnecessary for the operation of his/her department, the department should follow the process outlined in the Disposal of Surplus policy. Purchasing will evaluate the request and determine if the item will sold, put up for claim by a Town department or trashed.

Fixed Assets

Fixed assets are defined as those properties the Town of Colonie retains more or less permanently, not for sale, but for utilization in the normal course of operations

Fixed assets will always imply tangible fixed assets, the general accepted practice, as in Town of Colonie, is to record a report fixed assets at their historical acquisition cost. The cost of a fixed asset should include all expenses of transporting the asset to the proper location and placing it in the condition necessary for its intended use. Only items costing five thousand dollars (\$5,000.00) or more will be inventoried. This limit has been established as assets under five thousand dollars cost, due to time, effort and paperwork cost involved, do not warrant being inventoried. This will be Town policy and all items

under the five thousand dollar cost shall be considered supplies and inventory control managed within the department.

The Comptroller's Office staff will conduct periodic fixed asset exams as they see fit to assure Town departments are properly tracking Town assets and are prepared for New York State Auditors'.

Receiving

The majority of purchase orders are for delivery to the requisitioning department.

Upon receipt of an asset valued over \$5,000, Purchasing will complete the Fixed Asset Card for the new asset as part of the invoice receipting process.

The only exception to this procedure will be for computer equipment that will be maintained and tagged by the Management Information Services Department. MIS will record transfers of equipment and obsolete computer equipment shall be disposed of upon approval by the MIS Director using the Town's Surplus Disposal Policy. MIS will track all computer related items regardless of dollar value and maintain a database for all items including those awaiting assignment and disposal.

Disposal of large equipment and vehicles shall be done by way of on-line auction or open competitive bid depending on the condition and remaining value of the asset.

Procedures for Federal Grant Administration Requirements

Procurement Standards

The Town of Colonie does not have a centralized grants department, therefore it is the responsibility of each department obtaining a grant to administer, and be familiar with, all grant documents and requirements. If it is a Federal Grant, the department should immediately notify the Town of Colonie Comptroller's Office and Purchasing for guidance and assistance. For purposes of this policy Department Head applies to the individual within a given department who will be responsible for the grant.

Uniform Guidance Compliance Supplement – General Information

The following financial policies have been separately reviewed and approved by the Colonie Town Board. These policies are incorporated into this document by reference. All of the policies below are applicable to Federal grants where appropriate:

Town of Colonie Procurement Policies and Procedures
Code of Ethics of the Town of Colonie (Local Law No. 13 of 1990, Chapter 17 of
the Town Code)
Affirmative Action Policy

Uniform Guidance Compliance – Procurement Standards

The type of purchase procedures required depends on the cost of the item(s) being purchased.

Note, the Town's procurement policy is more restrictive than the federal purchase methods below, departments must always follow the most restrictive policy.

Sealed Bids (Formal Advertising): For purchases over \$20,000 bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the following conditions apply:

A complete, adequate, and realistic specification or purchase description is available;

- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised;
- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- A firm fixed price contract award must be made in writing to the lowest responsive and responsible bidder.

Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. Any or all bids may be rejected if there is a sound documented reason.

Competitive Proposals: The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.

If this method is used, the following requirements apply:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- Proposals must be solicited from an adequate number of qualified sources; and
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The Town may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby proposers' qualifications are evaluated and the most qualified proposer is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

Contract/Price Analysis: The Town performs a cost or price analysis in connection with every procurement action in excess of \$20,000, including contract modifications. 2 C.F.R. § 200.323(a). A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the Department Head must come to an independent estimate prior to receiving bids or proposals. 2 C.F.R. § 200.323(a).

When performing a cost analysis, the Department Head negotiates profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. 2 C.F.R. § 200.323(b).

The cost plus a percentage of cost and percentage of construction cost methods of contracting must NOT be used.

Noncompetitive Proposals (Sole Sourcing)

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- The item is available only from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the Town; or
- After solicitation of a number of sources, competition is determined inadequate.

Full and Open Competition

All procurement transactions shall be conducted in a manner providing full and open competition consistent with 2 C.F.R § 200.319. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

Solicitation Language

The Town shall ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. 2 C.F.R § 200.319(c).

Geographical Preferences Prohibited

The Town shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

Prequalified Lists

The Town shall ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the Town must not preclude potential bidders from qualifying during the solicitation period.

Avoiding Acquisition of Unnecessary or Duplicative Items

The Town shall avoid the acquisition of unnecessary or duplicative items. Additionally, consideration is given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis must be made of leases versus purchase alternatives, and another other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the allow ability of each purchase made with federal funds.

Use of Intergovernmental Agreements

To foster greater economy and efficiency, the Town enters into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

Use of Federal Excess and Surplus Property

The Town considers the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Debarment and Suspension

The Town awards contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The Town may not subcontract with or award sub grants to any person or company who is debarred or suspended. For all contracts over \$20,000 for commodities, and \$35,000 for public works the Town verifies that the vendor with whom the Town intends to do business with is not excluded or disqualified. 2 C.F.R. Part 200, Appendix II (1) and 2 C.F.R. §§ 180.220 and 180.300. This is done by the Department Head by checking on Sam.gov and by completing the Vendor Responsibility Questionnaire.

Maintenance of Procurement Records

The Town shall maintain records sufficient to detail the history of all procurements. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, the basis for the contract price (including a cost or price analysis), and verification that the contractor is not suspended or debarred (to be supplied by the Department Head, as described above).

Settlements of Issues Arising Out of Procurements

The Town alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the Town of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

Protest Procedures to Resolve Dispute

The Town maintains protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency.

Standards of Conduct

In accordance with 2 C.F.R. §200.18(c)(1), the Town maintains the following standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of the Town may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, unless the gift is an unsolicited item of nominal value.

Bonding requirements §200.325

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Town shall require:

1. A bid guarantee from each bidder equivalent to five percent of the bid price.
2. A performance bond on the part of the contractor for 100 percent of the contract price.
3. A payment bond on the part of the contractor for 100 percent of the contract price.

Contract provisions §200.326

The Town's contracts will contain the applicable provisions described in Appendix II to Part 200.

BID PROTEST POLICY

Policy: It is the policy of the Town of Colonie General Services Department, Division of Purchasing (Purchasing) to provide vendors with an opportunity to administratively resolve "Bid Protests" or inquiries related to bid solicitations or contract awards. Bidders are encouraged to seek resolution of disputes through consultation with designated contacts. All such matters will be accorded full, impartial and timely consideration.

Interested parties may also file a formal written dispute according to the following procedures.

Formal Protests:

A. Definitions

1. "Filed" means the complete receipt of any document by Purchasing before its close of business.
2. "Interested Party" for the purpose of filing a dispute relating to a solicitation, as used in this section, means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.
3. "Interested Party" for the purpose of filing a dispute relating to a contract award, as used in this section, means an actual bidder or offeror for the subject contract.
4. "Issuance of Award" means the date of the Colonie Town Board Resolution awarding the Contract.
5. "Dispute" means a written objection by an interested party to any of the following:
 - a. A solicitation or other request by Purchasing for offers for a contract for the procurement of commodities, services and all construction services.
 - b. The cancellation of the solicitation or other request by Purchasing.
 - c. An award by the Town Board or proposed award of the contract by Purchasing.
 - d. A termination or cancellation of an award of the contract by Purchasing.

B. Submission of Protests

1. A formal dispute by an interested party as defined in A. 2 or 3 must be in writing to Purchasing by certified mail or facsimile.
2. The dispute must include:
 - a. Name, address, e-mail address, fax and telephone numbers of the filer.
 - b. Solicitation Name and Opening Date.
 - c. Detailed statement of the legal and factual grounds for the dispute, including a description of resulting prejudice to the filer.
 - d. Copies of relevant documents.
 - e. Request for a ruling by the agency.
 - f. Statement as to the form of relief requested.
 - g. All information establishing that the filer is an interested party for the purpose of filing a dispute.
 - h. All information establishing the timeliness of the dispute.

3. Disputes should be filed with the Director of General Services at the following address:

Town of Colonie
General Services Department, Division of Purchasing
534 New Loudon Road
Latham, NY 12110
Facsimile: (518) 786-7329

4. Disputes concerning a solicitation shall be filed by an Interested Party (see A.2) with Purchasing no later than 4:00 PM one day prior to the date set in the solicitation for receipt of bids.
5. Disputes concerning a pending or awarded contract must be filed within ten (10) business days by and Interested Party (see A.3) after the disputing party knows or should have known of the facts which form the basis of the dispute: however, a dispute may not be filed later than ten (10) days after Issuance of the Award.
6. Purchasing may consider the merits of any dispute.

C. Submission of Protests

1. The General Services Director will consider all information relevant to the dispute, and may, at his/her discretion, suspend, modify, or cancel the disputed procurement action prior to issuance of a formal dispute decision.
2. The General Services Director reserves the right to wave or extend the time requirements for decisions and final determination on appeals herein prescribed when, in his/her sole judgment, circumstances so warrant.
3. Notice of Decision: A copy of the decision, stating the reason(s) upon which it is based and informing the filer of the right to appeal an unfavorable decision to the Town Attorney shall be sent to the filer or its agent by certified mail within thirty (30) business days of receipt of the dispute.

D. Appeals

1. Should the filer be dissatisfied with the dispute determination, a written appeal may be directed to:

Town of Colonie
Town Attorney
534 New Loudon Road

Latham, NY 12110
Facsimile: (518) 786-7324

2. Written notice of appeal of a determination regarding a dispute of the Town's bid solicitations, a pending contract award and/or contract award must be received at the above address no more than (3) three business days after the date the decision is received by the filer. The decision of the General Services Director shall be a final and conclusive determination unless appealed to the Town Attorney within such time period.
3. The Town Attorney shall hear and make a final determination on all appeals or may designate a person or persons to act on his/her behalf. The final determination on the appeal shall be issued within twenty (20) business days of receipt of the appeal.
4. An appeal of the decision of the General Services Director shall not include new facts and information unless requested in writing by the Town Attorney.

E. Legal Appeals

Nothing contained in these provisions is intended to limit or impair the rights of any vendor or contractor to seek and pursue remedies of law through the judicial process.

TOWN OF COLONIE CHANGE ORDER POLICY

Alterations to construction contracts or other service contracts are called Change Orders. Change Orders authorize additional or altered work to be performed that is either necessary to complete the work in the original contract as intended or to add work that would not result in a material change to the scope of the contract.

Change Orders may occur due to:

1. The need to add work related to the original scope, to delete work, or to otherwise modify the original work scope;
2. Price overruns or underruns (on a unit price item);
3. Design errors or omissions;
4. Unanticipated field conditions; or
5. Non-material scope of work changes.

A Change Order may not be used to circumvent the competitive bidding requirements under General Municipal Law section 103 and 104-b where the supplemental work so varied from the original plan, was of such importance, or so altered the essential identity or main purpose of the contract, that it constitutes a new undertaking. Change Orders are not subject to competitive bidding requirements because they are not viewed as new procurements. The Town is allowed to modify contracts without competition so long as such modification does not alter the essential identity or main purpose of the contract.

While it is not unusual to have deductive Change Orders, Change Orders usually increase the cost of the contract. All Change Orders that increase the cost of the contract must be approved by the Town Board. Accordingly, the work that is the subject of the Change Order may not be started prior to receipt of such Town Board approval. The relevant department head must provide supporting documentation for any Change Order which must be submitted as an attachment to the proposed resolution for Town Board consideration. This supporting documentation may take any form, a memorandum for example, but must include a description of the project as originally constructed, the change in work as compared to the work that was originally contemplated in the contract as well as supporting information describing why the Change Order does not constitute a change to the essential identity or main purpose of the original contract.

All proposed Town Board resolutions must be submitted by twelve o'clock noon (12:00 PM) on the Thursday prior to the date of the Town Board meeting for which the proposed resolution is to be considered. All Change Orders will be reviewed by the Town Attorney's Office as well as the Director of General Services prior to being scheduled for Town Board consideration. The Town Attorney's Office and Director of General Services will make the final determination as to whether any proposed Change Order constitutes a new project for which competitive bidding is required.

URGENT CHANGE ORDERS: The Town recognizes that certain Change Orders may arise which are so essential and of such urgency that a commitment of public funds must be made prior to the next Town Board Meeting. A Change Order may be considered Urgent for any number of reasons including but not limited to a likelihood of the public safety being put at risk or irreparable damage being done to the overall project if additional work is not immediately approved. If a department head deems a Change Order to be Urgent for any reason, the department head must submit all of the above mentioned materials along with a justification for the need to have the work immediately approved to the Director of

General Services and the Town Attorney's Office. The Director of General Services and Town Attorney's Office will make the final determination as to whether any proposed Urgent Change Order is so essential as to warrant approval prior to being considered by the Town Board

APPENDIX

Purchase order Terms and Conditions

Public Works General Contracting Agreement

CONDITIONS GOVERNING ALL TOWN OF COLONIE PURCHASE ORDERS

- 1) The Town of Colonie is not responsible for materials, supplies or equipment delivered without authority of its purchase order.
- 2) All materials shipped by freight, express or parcel post must have all charges fully prepaid to point of delivery unless otherwise arranged for and expressly stated on the purchase order.
- 3) Include itemized packing slips with all shipments or deliveries. Show name of department for whom delivery is intended and purchase order number on the packing slip.
- 4) Invoices must be rendered on the date of complete shipment of all materials on Town orders. Separate invoices for partial shipments are not allowed unless otherwise arranged for and expressly stated on the purchase order.
- 5) Individual invoices are required for each order. Invoice must be itemized in detail.
- 6) Cash discount terms must be indicated on purchase order. Discount offered will be computed from the time of final inspection and acceptance at delivery or from date of vendor/contractor certified corrected billing on Town purchase order, whichever is later.
- 7) All materials, supplies and equipment received are subject to inspection and acceptance by the Town of Colonie.
- 8) If unable to fill a Town order exactly in accordance with description, unit and price thereon, communicate at once with the General Services Department, Purchasing Division at (518) 783-2726. The Town reserves the right to reject and return at shipper's expense any or all materials or supplies delivered which do not conform to our description or specifications.
- 9) If there is any part of a Town order you cannot fill promptly or within the time specified, notify the General Services Department, Purchasing Division (518) 783-2726 at once. We reserve the option to cancel the order or any part thereof if not filled promptly.
- 10) Where items are tax paid by the manufacturer, the tax should be deducted as a separate item and an exemption certificate will be executed by the Town on any such items to enable the vendor to recover the tax from the manufacturer.

11) Invoices must contain the Town of Colonie Purchase Order Number.

For question concerning these terms, please contact the Town of Colonie, General Services Department, Purchasing Division at (518) 783-2726 or at purchasing@colonie.org

Effective 6/2/2022



TOWN OF COLONIE
GENERAL CONTRACTING AGREEMENT 20__
Department: _____

Vendor: _____

THIS AGREEMENT made and entered into this ____ day of ____, 20__, by and between TOWN OF COLONIE (hereinafter referred to as the "TOWN"), and _____ (hereinafter referred to as the "CONTRACTOR").

WHEREAS, on ____ 20__, the Town authorized this Agreement pursuant Town Board Resolution No. _____

WITNESSETH: For and in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto do mutually covenant and agree with each other as follows:

SECTION 1. DESCRIPTION OF WORK OR PROJECT

Contractor shall, in a good and workmanlike manner, subject to the provisions of this Agreement and any Specifications/Scope of Work attached hereto, provide the following services _____

_____ This Agreement may be used by various Town Departments as needed.

SECTION 2. TERM

This Agreement shall be effective as of _____ through _____.

SECTION 3. COMPENSATION

Compensation under this Agreement shall be pursuant to and in accordance with a Department approved project/service quote and invoice, but in no event shall aggregate compensation under this Agreement for the aforementioned term exceed _____ (\$ _____) without further Town Board approval. Town of Colonie is a tax-exempt entity under the laws of the State of New York.

SECTION 4. NO PAYMENT FOR SERVICE PROVIDED FOLLOWING EXPIRATION/TERMINATION OF AGREEMENT

Contractor shall have no claim against Town for payment of any kind whatsoever for any services provided by Contractor, which were provided after the expiration or termination of this Agreement.

SECTION 5. ASSIGNMENT

In accordance with Section 109 of the New York General Municipal Law, Contractor shall not assign, transfer, convey, subcontract, or otherwise dispose of the Agreement, or of Contractor's right, title or interest therein without the previous written consent of the Town.

SECTION 6. PREVAILING WAGE RATES AND SUPPLEMENTS

Contractor warrants they are familiar with and in compliance with Sections 220 and 220-d of the State of New York Labor Law. These Sections govern the payment of wages so that each laborer, worker or mechanic upon this project employed by the Contractor shall not receive less than the prevailing hourly wage rate for a legal day's work. It is the Contractor's responsibility to ensure compliance with the prevailing wage rates that are current at the time work is performed under this Agreement. The Prevailing Wage Rate Schedule for the job titles can be found at the New York State Department of Labor's website.

SECTION 7. PAYMENT PROCEDURES

CONTRACTOR shall, as soon as practicable after the completion of the work, submit a payment application in the form of an itemized invoice and a signed claim form. Payment applications shall be submitted to the Town of Colonie Department requesting service for review and acceptance.

Proper and full accounting records shall be maintained by the Contractor which records shall clearly identify the costs of the work performed under this Contract and which records shall be made available to the Town upon request to substantiate payment applications.

The administrative actions and submittals that must precede or coincide with submittal of Contractor's payment applications are as follows, but not necessarily by way of limitation:

- a. Submission of Certified Payrolls pursuant to New York State Labor Law § 220 for all General Contractor and Sub-contractors, where applicable; and
- b. Prior to FINAL payment application, Contractor must also have received final acceptance of work by the Town.

The Town reserves the right to refuse final payment or any part of any payment to such extent as may be necessary in Town's opinion to protect Town from loss for the following reasons:

- a. The Work is defective, or completed work has been damaged requiring correction or replacement;
- b. Claims have been made against Town or liens have been filed in connection with the work;
- c. The Contract Price has been reduced because of modifications;
- d. Town has been required to correct defective work or complete the work;
- e. Contractor's unsatisfactory performance of the work in accordance with this Agreement; or
- f. Contractor's failure to make payment to any Sub-contractor for labor, materials or equipment.

Contractor shall, from time to time, as required by Town, furnish satisfactory evidence that the claims of all persons, who have done work or furnished materials for the improvement to be constructed hereunder, have been fully discharged or have been secured in a manner satisfactory to Town.

SECTION 8. SET-OFF RIGHTS

The Town shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the Town's option to withhold for purposes of set-off any moneys due to the Contractor under this Agreement up to an amounts due and owing to the Town with regard to this Agreement, any other contract with the Town, including any contract for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the Town for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. This Section shall survive expiration or termination of this Agreement.

SECTION 9. EXECUTORY CLAUSE

The Town shall have no liability under this Agreement to the Contractor or to anyone else beyond funds appropriated and available for this Agreement. In the event that funding is terminated, in whole or in part, for any reason, at any time, this Agreement and all obligations of the Town arising from this Agreement shall be immediately discharged. Town agrees to inform Contractor no later than ten (10) business days after the Town determines, in its sole judgment, that funding will be terminated and the final date for which funding will be available. Under these circumstances, all billing or other claims for compensation or reimbursement by Town arising out of performance of this Agreement must be submitted to Town prior to the final date for which funding is available.

SECTION 10. INDEMNIFICATION

Contractor shall defend, indemnify, and hold harmless the Town, and the Town's officers, employees, and agents, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees,

arising out of or resulting from activities done by Contractor or Sub-contractor or its of their officers, directors, employees, or agents in connection with this Agreement, to the extent that Contractor, a Sub-contractor, or its or their officers, or anyone directly or indirectly employed by them, is responsibility for such claims, damages, losses or expenses, except for those claims, damages, losses or expenses that arise solely out of the Town's negligence. This Section shall survive expiration or termination of this Agreement.

SECTION 11: INSURANCE

Before commencing work, and at no additional expense to the Town, the Contractor shall provide the Town with a certificate of insurance naming the Town of Colonie as an additional insured for general liability coverage and showing proof of the following coverage in connection with this project:

- A. Workers' Compensation and Employer's Liability Insurance meeting all New York State statutory requirements (proof of Workers' Compensation must be in the form of a CE-200, C-105.2, or SI-12 form);
- B. Comprehensive General Liability, including comprehensive form, contractual, products/completed operations, and broad form property insurance, with limits of not less than \$1,000,000 combined single limit for each occurrence and \$2,000,000 annual aggregate; and
- C. Automobile liability with limits of not less than \$1,000,000 for each accident.

The Certificate(s) of Insurance and any insurance-related notices shall be mailed to the Town of Colonie Attorney's Office, 534 New Loudon Road, Latham, NY 12110.

Certificate acceptance and/or approval by the Town does not and shall not be construed to relieve the Contractor of any obligations, responsibilities or liabilities under this Agreement.

The Contractor shall be solely responsible for premiums, deductibles and self-insured retentions, if any, to which such policies are subject.

Not less than thirty (30) days prior to the expiration date or renewal date, the Contractor shall supply to the Town updated replacement certificates of insurance, and amendatory endorsements.

Failure to obtain and/or keep in effect any or all required insurance on behalf of the Town as provided above will constitute a material breach of contract and subject the Contractor to liability for damages, indemnification, and all other legal remedies available to the Town. The insurance requirements shall not be construed to conflict with the obligations of the Contractor concerning indemnification. Failure to obtain and/or keep in effect and or all required insurance shall also provide the basis for the Town's immediate termination of any Agreement with the Contractor, subject only to a five (5) business day cure period. Any termination by the Town as provided herein shall in no event constitute or be deemed a breach of this Agreement and no liability shall be incurred by or arise against the Town, its officers, employees, and agents for such termination or lost profits or any other damages.

SECTION 12. PROPERTY DAMAGE

The Contractor will be held responsible for all damage or injury done by Contractor, Sub-contractor, or any of its or their officers, directors, employees, or agents to any private or public property of any character during the Work. The Contractor shall at its own expense, in a manner satisfactory to the Town, restore or repair the damaged property. If Contractor fails to restore or repair the damaged property in a manner satisfactory to the Town, the Town may, upon forty-eight (48) hours-notice to the Contractor, proceed with such restoration or repair. The expense of such restoration or repair shall be deducted from any moneys which are due or may become due to Contractor under this Contract.

SECTION 13. LAWS AND REGULATIONS

This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to the conflicts of law provisions. This Agreement is valid as an agreement for which competitive bidding under the New York State General Municipal Law §103 is not required. All other applicable federal laws, State laws, municipal laws and ordinances and the rules and regulations of all authorities having jurisdiction of the project shall apply to the Agreement and will be deemed to be included in the Agreement as though herein written out in full.

SECTION 14. VENUE

Notwithstanding any other provision of this Agreement, any disputes concerning any question of fact or law arising under this Agreement or any litigation arising out of this Agreement, shall be tried in the Courts of the State of New York in Albany County or in the Federal Court in the Northern District of New York.

SECTION 15. RELATIONSHIP – INDEPENDENT CONTRACTOR

The relationship of the CONTRACTOR (including, for purposes of this paragraph, its officers, employees, and agents) to the TOWN arising out of this Agreement shall be that of an independent Contractor. The CONTRACTOR covenants and agrees that it will neither hold itself out as, nor claim to be, an officer, employee or agent of the TOWN by reason hereof, and that it will not by reason hereof, make any claim, demand or application for any right or privilege applicable to an officer, employee or agent of the TOWN, including without limitation, workers' compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.

SECTION 16. TERMINATION OF AGREEMENT

Town shall have the right at any time to terminate the work required of the Contractor by this Agreement for any reason or no reason by written notice. In the event of such termination of this Agreement, the Town shall pay Contractor all amounts due for work satisfactorily completed and not previously paid.

SECTION 17. NOTICES

All notices to be given hereunder shall be given in writing and shall be delivered personally or by U.S. mail as follows:

CONTRACTOR:

Attn:

TOWN

534 New Loudon Road
Latham, New York 12110
Attn: Town Attorney

Notices shall be sufficiently given for all purposes under this Agreement upon delivery, when personally delivered to the recipient, or four days after deposit in a United States Postal Service office or mailbox, when mailed by U.S. mail.

SECTION 18. QUALITY OF SERVICE

Contractor shall perform its services with care, skill, and diligence, in accordance with the applicable professional standards currently recognized by such profession, and shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs, drawings, plans, information, specifications, and/or other items and services furnished under this Agreement. Contractor shall, without additional compensation, correct or revise any errors or deficiencies immediately upon discovery in its reports, drawings, specifications, designs, and/or other related items or services.

SECTION 19. LIMITED AFFECT OF WAIVER OR PAYMENT

In no event shall the making, by Town, of any payment to Contractor constitute, or be construed as, a waiver by Town of any breach of covenant, or any default which may then exist, on the part of Contractor. The making

of any such payment by Town while any such breach or default shall exist, shall not be construed as acceptance of substandard or careless work or as relieving Contractor from its full responsibility under this Agreement.

No waiver by either party of any default, breach or condition precedent shall be valid unless made in writing and signed by the parties hereto. No oral waiver of any default, breach or condition precedent shall be binding on any of the parties hereto. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder.

SECTION 20. COMPLIANCE WITH STATE OF NEW YORK INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

SECTION 21. ENTIRE AGREEMENT

This Agreement represents the entire Agreement between the parties and no modifications thereof, or additions thereof, have been agreed to or will be binding hereafter, unless evidenced in writing by the parties hereto. No work, service, or liability on the part of the Contractor other than that specifically mentioned in this Agreement is included or intended.

SECTION 22. CAPTIONS

The captions of each paragraph in this Agreement are inserted as a matter of convenience and reference only, and in no way define, limit, or describe the scope or intent of this Agreement or in any way affect it.

SECTION 23. SEVERABILITY

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable or invalid, in whole or in part, for any reason, the validity and enforceability of the remaining provisions, or portion of them, will not be affected. Compensation due to Contractor from the Town may, however, be adjusted in proportion to the benefit received despite the removal of the effected provision.

SECTION 24. FORM OF AGREEMENT

A telefax, photocopy, or portable document format (.pdf) of this document and the signatures thereon shall be as effective as an original. This document may also be executed in separate counterparts, which when joined together shall form a single instrument.

COMPANY NAME HERE, INC.

TOWN OF COLONIE

By: _____

By: _____

Date: _____

Date: _____

Name: _____

Town Supervisor

Title: _____