

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

THIS AGREEMENT, made and entered into this _____ day of March, 2019, between the **TOWN OF DRYDEN**, with offices at 93 East Main Street, Dryden, NY 13053, (the "Town") a municipal subdivision of the State of New York situate in Tompkins County, party of the first part, and **HUNT ENGINEERS, ARCHITECTS, LAND SURVEYORS & LANDSCAPE ARCHITECT, D.P.C**, with offices at 100 Hunt Center, Horseheads, NY 14845 (the "Consultant") a domestic professional corporation under the laws of the State of New York, party of the second part, WITNESSETH:

WHEREAS, the Town Board of the Town has been concerned with exploring the feasibility of a municipally-owned and operate Fiber-To-The-Home (FTTH) network in Dryden, and

WHEREAS, Consultant has offered to assist the Town Board of the Town in performing a feasibility study and report relative thereto as described in Consultant's proposal dated February 19, 2019 attached hereto as **Exhibit A**.

NOW, THEREFORE, in consideration of the foregoing promises and the mutual covenants hereinafter expressed, it is hereby agreed by and between the parties hereto as follows:

1. The Town hereby enters into an agreement with Consultant to perform the services outlined more particularly on **Exhibit A**.
2. For the above services as outlined, the Consultant will receive the fees set forth on Exhibit A upon the submittal of appropriate vouchers to the Town for audit and payment.

3. No rules, requirements or customs of any society or association of professional engineers or any similar association shall affect this Agreement in any way whatsoever or be binding upon the Town.

4. No Assignment: In accordance with the provisions of section 109 of the General Municipal Law, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement, or of its right, title or interest in this agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Town.

5. Required Provisions of Law: Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party, this contract shall be physically amended forthwith to make such insertion. In particular, the Consultant shall, among other things, fully comply with:

(a) Labor Law section 220-e and Executive Law sections 291-299 and the Civil Rights Law relating to prohibition against discrimination and equal opportunity.

(b) Consultant shall supply the Town with proof of required workers' compensation insurance coverage for its employees under New York Workers' Compensation Law or an attestation on the required form that it is exempt from having to provide such coverage.

6. The Consultant, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with such status. It will neither hold itself out as, nor claim to be, an officer or employee of the Town by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the

Town, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

7. Limitation upon Town Liability and Indemnity. The Town shall not be liable or responsible for any injury to persons or damage to property due to the Town's actions, or failures to act, under or pursuant to this Agreement, unless such injury or damage was caused by a reckless or intentional wrongful act of the Town or, where the Owner is not in breach of this Agreement and no emergency situation exists, by the Town's negligence. The Owner agrees to indemnify and hold harmless the Town and its elected officials, employees, agents, subcontractors and consultants for all damages, losses and claims that arise out of the Owner's and/or Town's actions or failures to act under or pursuant to this Agreement, except this indemnification shall not apply to any proportion of damages, losses and claims caused by any negligent, reckless or intentional act of the Town. Such indemnity shall include the costs of defending any action, including reasonable attorney fees, expert fees, and other litigation costs.

8. Waiver: No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

9. Authority for execution on behalf of the Town: The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board, at a meeting thereof held on March 14, 2019. Jason Leifer, Town Supervisor, whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an agreement on behalf of the Town. This instrument shall be executed in duplicate. At least one copy shall be permanently filed, after execution thereof, in the office of the Dryden Town Clerk.

10. This instrument may be executed in counterparts. At least one copy shall be permanently filed, after execution thereof, in the office of the Dryden Town Clerk.

TOWN OF DRYDEN:

By: _____
Jason Leifer, Town Supervisor

HUNT ENGINEERS, ARCHITECTS, LAND SURVEYORS & LANDSCAPE ARCHITECT,
D.P.C

By: _____
Name Title

STATE OF NEW YORK)

COUNTY OF TOMPKINS) ss.:

On this ____ day of _____, 2019, before me, the subscriber, personally appeared Jason Leifer who, being by me duly sworn, deposes and says: That he is the Town Supervisor of the Town of Dryden, the municipal subdivision of the State of New York named in and on whose behalf he executed the within Instrument, and that he is duly authorized to execute the same.

NOTARY PUBLIC

STATE OF NEW YORK)

COUNTY OF _____) ss.:

On this _____ day of _____ 2019 before me, the undersigned, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, as _____ of Hunt Engineers, Architects, Land Surveyors & Landscape Architect, D.P.C., and that by his/her signature on the instrument he is duly authorized to execute this instrument on behalf of said entity.

NOTARY PUBLIC

EXHIBIT A