February 1, 2017

LEGAL NOTICE

Sealed Bids will be received by the Oswego County Purchasing Department, 46 East Bridge Street, Oswego, New York until **2:00 p.m., Thursday, March 9, 2017** for the purchase of:

**GLASS SPHERES**

Specifications are available at the Purchasing Department at the above address Thursday through Friday, 9:00 a.m. to 5:00 p.m. and online at [www.oswegocounty.com](http://www.oswegocounty.com).

THE COUNTY RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS.

Daniel Stevens  
Purchasing Director
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PART 1: INFORMATION FOR BIDDERS

The County of Oswego Department of Highway is soliciting bids from qualified firms for reflectorized beads (glass spheres) for the Oswego County Highway Department, located at 24 Dill Pickle Alley, Parish, NY 13131.

DEADLINE, RECEIPT AND OPENING OF BIDS
Each Vendor shall submit a signed original bid and one (1) copy in a sealed opaque envelope indicating the company’s name and bid title: Bid #3-17- Glass Spheres. Bids are due on or before 2:00 p.m., Thursday, March 9, 2017. Either mail or deliver bids in person to:

Daniel Stevens
Oswego County Purchasing Office
46 East Bridge Street (3rd Floor)
Oswego, NY  13126

The County may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any or all bids. Any bid may be withdrawn prior to the scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified will not be considered and will be returned unopened. Bids may not be withdrawn within forty-five (45) days after the actual date of opening. Facsimile transmitted bids are not acceptable and will be rejected.

Bids delivered prior to the scheduled opening date will be deemed received upon the day of the actual opening, and will be retained in the interim only as a courtesy to the Vendor.

VENDOR’S RESPONSIBILITIES
It is the Vendor’s responsibility to meet the entire intent of these specifications. Vendors shall carefully examine the terms of this document and shall judge for themselves all the circumstances and conditions affecting their bid. Failure on the part of any Vendor to make such examination and to investigate thoroughly shall not be grounds for any declaration that the Vendor did not understand the terms and conditions herein. The County of Oswego shall not be liable for any costs associated with the preparation, transmittal, or presentation of any response or materials submitted in response to the BID.

It is the responsibility of each Vendor to:

Examine the BID documents thoroughly;
Consider federal, state and local laws and regulations that may affect the bid;
Study and carefully correlate Vendor’s observations with the BID document;
Visit the site and examine schematics to become familiar with local conditions that may affect the bid.

COMMUNICATIONS
Communications with the County shall be solely through the officials indicated below. Vendors are specifically directed not to contact any other County officials or employees in any fashion regarding this BID, without prior approval from the County Purchasing Director. Unauthorized communications may result in the rejection of the bid. The County will not be responsible for any oral representations or instructions.

Daniel H. Stevens
Purchasing Director
46 East Bridge Street
Oswego, New York  13126
fax: (315) 349-8308
dstevens@oswegocounty.com
SPECIFICATIONS DISCREPANCY
Should a Vendor find a discrepancy in, or omissions from the specifications, requirements for contract, or BID form, or be in doubt as to their meaning, the Vendor shall at once notify in writing the County Purchasing Director. Written instructions will be sent to all Vendors. All such addenda shall become a part of the contract and all Vendors shall be bound by such addenda, whether or not received by the Vendors. The County will not be responsible for any oral representations or instructions.

SCOPE PARAMETERS
If a Vendor identifies an additional element not included in this BID, which in its judgment would be essential to accomplish the intended objectives as articulated in this BID, the Vendor should identify this element in its bid and explain in detail why the County should consider including this element within the scope of services. Conversely, if a Vendor identifies a task within the BID that it believes could be modified or deleted without impacting the objectives of the BID, the Vendor should provide an explanation as to why the task should be deleted or modified. The County reserves the right to accept or reject all additions, deletions or modifications recommended.

VENDOR’S QUALIFICATIONS & ELIGIBILITY
The County may make such investigation as it deems necessary to determine the qualifications and ability of a Vendor, and the Vendor shall promptly furnish the County all such information and data as the County may request for this purpose. The County reserves the right to reject any bid where an investigation of the available evidence or information does not satisfy the County that the Vendor is properly qualified or able to carry out the obligations of the contract and to provide the services contemplated herein.

AWARD – GENERAL
Additional selection factors may be included under Part 2: SPECIFICATIONS section of this BID.

The Vendor must provide unquestionable evidence of sustained capability of providing the services requested and proposed, such as can be demonstrated in existing or previous operations.
The County may award a contract based upon the bids received, without discussion of such bids with Vendors. Each bid should, therefore, be submitted in the most favorable terms the Vendor can make to the County. The County of Oswego does, however, reserve the right to request additional data or an oral presentation in support of the written bid. Submission of a bid does not automatically qualify a Vendor for a presentation. The County reserves the right to negotiate with all qualified Vendors.

The County of Oswego, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 and New York State Executive Law affirmatively ensures that the contract will be awarded without discrimination on the grounds of race, creed, color, disability, marital status, age, sexual orientation or natural origin.

All bids over $5,000 are subject to final review and acceptance by the Oswego County Legislature before any award of contract may be made. Receipt of bids by the County shall not be construed as authority to bind the County.

All bids shall be firm for a period of forty-five (45) days after the opening date in order for the County to determine which bid best meets the public interest. The County reserves the right to extend said period.

At the discretion of the County, the successful Vendor must provide Letter of Commitment within thirty (30) days of acceptance.

COMMENCEMENT OF WORK
Upon execution and delivery of the contract and delivery of any required performance bonds, including the required Certificates of Insurance and the approval thereof by the County Attorney, the successful Vendor will be notified to proceed with the work of the contract. Such notification will be in the form of a letter to proceed from the County’s Purchasing Office.

CANCELLATION
The County reserves the right to cancel the contract at will. If the Vendor fails to perform under the contract, fails to meet specifications, or fails to make satisfactory progress so as to endanger the overall contract performance, they may be determined to be in breach and the contract may be terminated by giving written notice to the Vendor of such termination and specify the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, and reports prepared by the Vendor under this contract shall, at the option of the County, become County property and the Vendor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

The Vendor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the contract by the Vendor, and the County may withhold any payments to the Vendor for the purpose of determining the exact amount of damages due the County.

**PRICING**

All prices are to be lump sum and quoted firm against increase for the duration of the contract. Travel and incidental expenses cannot be separately invoiced. The County shall not be responsible for any additional costs.

- END OF PART 1 –
PART 2: SPECIFICATIONS

MATERIAL SPECIFICATIONS

SCOPE: This specification covers reflectorized beads for application to pavement marking materials for the production of a reflective surface. The Glass Spheres shall conform to NYSDOT Section 727-05 Glass Spheres for Pavement Markings.

Material must be composed of glass that is highly resistant to traffic wear and to the effects of weathering. Be colorless, clean, transparent, free from milkiness or excessive air bubbles, and essentially free from surface scarring or scratching. Silica content (ASTM C169): 60% minimum. Refractive index: 1.50 when tested by the liquid immersion method at 77°F. Material must show no tendency to absorb moisture in storage and shall remain free of clusters and hard lumps and flow freely from the dispensing equipment at any time when surface and atmospheric conditions are satisfactory for painting.

The Glass Spheres shall contain no more than 200 PPM of arsenic or lead when tested by EPA method 3052, 6010B or 6010C.

Sphericity: (ASTM D1155 Procedure A) Spherical in shape – 70% minimal, true spheres.

Gradation. (ASTM D1214).

<table>
<thead>
<tr>
<th>TABLE 727-05-1 GLASS SPHERE GRADATION (Standard Bead)</th>
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<tbody>
<tr>
<td>Marking Type</td>
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<tr>
<td></td>
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<tr>
<td>Traffic Paint</td>
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</tbody>
</table>

Coating.

<table>
<thead>
<tr>
<th>TABLE 727-05-3 GLASS SPHERE COATINGS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marking Type</td>
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<tr>
<td></td>
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<tr>
<td>Traffic Paint</td>
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</tbody>
</table>

Moisture-Resistance. Place two pounds of spheres in a washed cotton bag, having a thread count of approximately 50 square inch (warp and woof) and immerse the bag in a container of water for 30 seconds. Remove the bag and force excess water from the sample by squeezing the bag. Suspend and allow to drain for two hours at room temperature (73°F ± 3°F). Then, mix the sample in the bag by shaking thoroughly. Transfer sample slowly to a clean, dry glass funnel having a stem 4 inches in length, with a 3/8 inch stem
Bid #3-17 Glass Spheres

entrance inside diameter opening and a minimum exit opening of 1/4 inch. The entire sample shall flow freely through the funnel without stoppage. When first introduced into the funnel, if the spheres clog, it is permissible to lightly tap the funnel to initiate the flow.

**Packing and Shipping.** The material shall be shipped to the specified site in waterproof plastic lined burlap or plastic lined paper bags with the following information clearly marked on the packages:

- Manufacturer’s Name
- Name of Product
- Size/Type/Coating
- Material Specification Number
- Lot/Batch Number
- Manufacture Date
- Quantity/Weight of Material

**MATERIAL REQUIREMENTS:**

Shall meet or exceed Potters Industries products: NY AC-110 in 2,000 lb. carton # 602132.

**Product Classification:**

Glass Spheres for ReflectORIZED Pavement Markings for Highway, Road and Street use per NYS Section (727-05).

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Type I Glass Spheres (with Moisture Resistant Coating) For Reflectorized Pavement Marking complete as per specification</td>
</tr>
<tr>
<td>a.</td>
<td>Full Truckload Quantity of 44,000 pounds or more:</td>
</tr>
<tr>
<td></td>
<td>Packaged in 50 pound bags</td>
</tr>
<tr>
<td></td>
<td>Packaged in 2000 pound cartons</td>
</tr>
<tr>
<td>b.</td>
<td>Less than Truckload Quantity of 22,000 to 43,950 pounds:</td>
</tr>
<tr>
<td></td>
<td>Packaged in 50 pound bags</td>
</tr>
<tr>
<td></td>
<td>Packaged in 2000 pound cartons</td>
</tr>
<tr>
<td>c.</td>
<td>Less than Truckload Quantity of 10,000 to 21,950 pounds:</td>
</tr>
<tr>
<td></td>
<td>Packaged in 50 pound bags</td>
</tr>
<tr>
<td></td>
<td>Packaged in 2000 pound Cartons</td>
</tr>
</tbody>
</table>

- END OF PART 2 -
PART 3: BID FORMAT

All bids must be in accordance with the format specified below. Please submit one signed original and one (1) copy of your bid in a sealed envelope marked BID #3-17 - GLASS SPHERES.

Vendor Reply Cover Sheet (attached)
Non-Collusion Certification (attached)
Vendor Information Sheet (attached)
Resolution for Corporations (attached)
Non-Bidders' Response

- END OF PART 3 -

PART 4: GENERAL PROVISIONS

ARTICLE 1 SCOPE OF WORK
Vendor agrees to provide the goods and services in accordance with the terms and conditions of this agreement. It is specifically agreed to by the vendor that the county will not compensate the vendor for any goods provided not within the scope of this agreement without prior authorization, evidenced only by a written change order or addendum to this agreement executed by the chairman of the legislature of the County after consultation with the county department head responsible for the oversight of this agreement (hereinafter “department head”).

ARTICLE 2 TERM OF AGREEMENT
The terms of this contract shall be from April 1, 2016 through March 31, 2017, but may be extended for one (1) additional year upon written agreement of both parties.

ARTICLE 3 COMPENSATION
The county will audit and pay the proper amounts due the vendor within sixty (60) days after receipt by the county of a county claimant’s certification form or invoice, and, if the either is objectionable, will notify the vendor in writing of the county’s reasons for objecting to all or any portion of the invoice submitted by the vendor. A not-to-exceed cost is as described in the pricing proposal has been established for the scope of goods and services rendered by the vendor. Costs in excess of such not-to-exceed cost if any, may not be incurred without prior written authorization of the county purchasing director, evidenced only by a written change order or addendum to this agreement, after consultation with the department head. It is specifically agreed to by the vendor that the county will not be responsible for any additional costs or costs in excess of the above-noted not-to-exceed cost if the county’s authorization by the chairman of the legislature is not given in writing prior to the provision of goods or performance of the services giving rise to such excess or additional costs.

ARTICLE 4 EXECUTORY CLAUSE
The county shall have no liability under this agreement to the vendor or to anyone else beyond funds appropriated and available for this agreement.
ARTICLE 5 PROCUREMENT OF AGREEMENT
The vendor represents and warrants that no person or selling agent has been employed or retained by the vendor to solicit or secure this agreement upon an agreement or upon an understanding for a commission, percentage, a brokerage fee, contingent fee or any other compensation. The vendor further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. The vendor makes such representations and warranties to induce the county to enter into this agreement and the county relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the county shall have the right to annul this agreement without liability, entitling the county to recover all monies paid hereunder and the vendor shall not make claim for or be entitled to recover, any sum or sums otherwise due under this agreement. This remedy, if effected, shall not constitute the sole remedy afforded the county for such falsity or breach, not shall it constitute a waiver of the county right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this agreement.

ARTICLE 6 CONFLICT OF INTEREST
The vendor represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the provision of goods and services herein provided. The vendor further represents and warrants that in the performance of this agreement no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the county, nor any person whose salary is payable, in whole or in part, by the county, or any corporation, partnership, limited liability company or association in which such official, officer or employee is, directly or indirectly interested, shall have any such interest, direct or indirect, in this agreement or in the proceeds thereof, unless such person (1) if required by the Oswego County ethics law as amended from time to time, to submit a disclosure form to the Oswego County board of ethics, amends such disclosure form to include their interest in this agreement, or (2) if not required to complete and submit such a disclosure form said person must either voluntarily complete and submit said disclosure form disclosing their interest in this agreement or seek a formal opinion from the Oswego County ethics board as to whether or not a conflict of interest exists.

For a breach or violation of such representations or warranties, the County shall have the right to annul this agreement without liability, entitling the County to recover all monies paid hereunder and the vendor shall not make claim for, or be entitled to recover, any sum or sums otherwise due under this agreement. This remedy, if elected, shall not constitute the sole remedy afforded the County for such falsity or breach, nor shall it constitute a waiver of the County’s right to claim damages or otherwise refuse payment to or to take any other action provided for by law or pursuant to this agreement.

ARTICLE 7 FAIR PRACTICES
The vendor and each person signing on behalf of the vendor represents, warrants and certifies under penalty of perjury, that to the best of their knowledge and belief:

A. The prices in this agreement have been arrived at independently by the vendor without collusion, consultation, communication, or agreement with any other vendor or with any competitor as to any matter relating to such prices which has the effect of, or has as its purpose, restricting competition;

B. Unless otherwise required by law the prices which have been quoted in this agreement and on the proposal or quote submitted by the vendor have not been knowingly disclosed by the vendor prior to the communication of such quote to the county or the proposal opening directly or indirectly, to any other vendor or to any competitor; and

C. No attempt has been made or will be made by the vendor to induce any other person, partnership, corporation or entity to submit or not to submit a proposal or quote for the purpose of restricting competition.

The fact that the vendor (i) has published price lists, rates, or tariffs covering items being procured (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has provided the same items to the other customers at the same prices being proposed or quoted, does not constitute,
without more, a disclosure within the meaning of this article.

**ARTICLE 8 INDEPENDENT CONTRACTOR**
In the provision of goods or performing the services and incurring expenses under this agreement the vendor shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the County. As an independent contractor, the vendor shall be solely responsible for determining the means and methods of providing the goods or performing the services and shall have complete charge and responsibility for the vendor’s personnel engaged in the performance of the same.

In accordance with such status as independent contractor, the vendor covenants and agrees that neither it nor its employees or agents will hold themselves out as, nor claim to be officers or employees of the County, or of any department, agency or unit thereof by reason hereof, and that they will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County including, but not limited to, Worker’s Compensation coverage, health coverage, unemployment insurance benefits, social security coverage or employee New York State Retirement System membership or credit.

**ARTICLE 9 ASSIGNMENT AND SUBCONTRACTING**
Pursuant to general municipal law §109, the vendor shall not assign any of its rights, interests or obligations under this agreement, or subcontract any of the provision of goods or services to be performed by it under this agreement, without the prior express written consent of the chairman of the legislature of the County. Any such subcontract, assignment, transfer, conveyance or other disposition without such prior consent shall be void and any goods or services provided thereunder will not be compensated. Any subcontract or assignment properly consented to by the County shall be subject to all of the terms and conditions of this agreement.

Failure of the vendor to obtain any required consent to any assignment, shall be grounds for termination for cause, at the option of the County and if so terminated, the County shall thereupon be relieved and discharged from any further liability and obligation to the vendor, its assignees or transferees, and all monies that may become due under this agreement shall be forfeited to the County except so much thereof as may be necessary to pay the vendor’s employees for past service.

The provisions of this clause shall not hinder, prevent, or affect any assignment by the vendor for the benefit of its creditors made pursuant to the laws of the state of New York.

This agreement may be assigned by the County to any corporation, agency, municipality or instrumentality having authority to accept such assignment.

**ARTICLE 10 BOOKS AND RECORDS**
The vendor agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this agreement.

**ARTICLE 11 RETENTION OF RECORDS**
The vendor agrees to retain all books, records and other documents relevant to this agreement for six (6) years after the final payment or termination of this agreement, whichever later occurs. County, or any state and/or federal auditors, and any other persons duly authorized by the County, shall have full access and the right to examine any of said materials during said period.

**ARTICLE 12 AUDITS BY THE COUNTY AND OTHERS**
All claimant’s certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said claimant’s certification forms or invoices are based are subject to audit by the county. The vendor shall submit any and all documentation and justification in support of expenditures or fees under this agreement as may be required by the county so that it may evaluate the reasonableness of the charges, and the vendor shall make its records available to the county upon request. All books claimant’s certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the County, the State of New York, the federal government, and/or other persons duly authorized by the County. Such
audits may include examination and review of the source and application of all funds whether from the County and State, the federal government, private sources or otherwise. The vendor shall not be entitled to any interim or final payment under this agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 13 INSURANCE AND STATUTORY COMPLIANCE
In acceptance of this agreement, the vendor covenants and certifies that it will comply, in all respects, with all federal, state and county laws which regarding work for municipal corporations including, but not limited to, workers’ compensation and employers liability insurance, hours of employment, wages and human rights, and the provisions of general municipal law §§103(a) and 103(b) and state finance law §§139-a and 139-b.

Pursuant to general municipal law §108, the parties hereto agree that this agreement contract shall be void and of no effect unless the vendor shall secure workers’ compensation for the benefit of, and keep insured during the life of the contract, such employees, in compliance and as may be necessary with the provisions of the workers’ compensation law.

For all of the provision of goods or services set forth herein and as hereinafter amended, the vendor shall maintain or cause to be maintained, in full force and effect during the term of this agreement, at its expense, a workers’ compensation insurance, liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the county who have been fully informed as to the nature of the goods to be provided or services to be performed. Except for workers’ compensation and professional liability, the county shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of the vendor and not those of the county. Notwithstanding anything to the contrary in this agreement, the vendor irrevocably waives all claims against the county for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this article 13. The provisions of insurance by the vendor shall not in any way limit the vendor’s liability under this agreement.

INSURANCE REQUIREMENTS
I. Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the vendor hereby agrees to effectuate the naming of the county of Oswego as an unrestricted, additional insured on the contractor's insurance policy(ies), with the exception of workers’ compensation. If the contractor is self-insured, evidence of its status as a self-insured entity shall be provided to the Oswego County Purchasing Department. If requested, the contractor must describe its financial condition and the self-insured funding mechanism(s).

II. The policy naming the County of Oswego as an additional insured shall, without exception:
   ● be an insurance policy from an a.m. Best rated “secured” New York State licensed insurer
   ● contain a 30-day notice of cancellation.
   ● state that the insurer's coverage shall be primary coverage for the County of Oswego, its officers, and employees.
   ● The County of Oswego shall be listed as an additional insured by using endorsement cg 2010 10 85 or broader. The certificate must state that this endorsement is being used. If another endorsement is used, a copy shall be included with the certificate of insurance.

III. The contractor agrees to indemnify the County of Oswego for any applicable deductibles.

IV. Required insurance minimums:
   ● Commercial general liability insurance$1,000,000 per occurrence/ $2,000,000 aggregate. General aggregate to apply on a per project basis.
   ● Automobile liability$1,000,000 CSL for owned, hired and borrowed and non-owned motor vehicles.
   ● Excess/umbrella insurance $1,000,000 each occurrence and aggregate Workers' Compensation and NYS Disability Statutory workers’ compensation, employers’ liability and NYS. Disability Benefits insurance for all employees.
   Performance and Labor & Material bondsIf required in the specifications,
V. The vendor acknowledges that failure to obtain such insurance on behalf of the County of Oswego constitutes a material breach of this contract. The vendor is to provide the County of Oswego with a certificate of insurance, evidencing the above requirements have been met, prior to the commencement of work or use of facilities. The failure of the County of Oswego to object to the contents of the certificate or the absence of same shall not be deemed a waiver of any and all rights held by the County of Oswego.

The vendor shall attach to this agreement a certificate of insurance evidencing the vendor’s compliance with these requirements.

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the county with respect to its interests, (ii) it shall not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without thirty (30) days prior written notice to the county, directed to the county attorney and the department head and the county shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to the vendor.

To the extent it is commercially available, each policy of insurance shall be provided on an “occurrence” basis. If any insurance is not so commercially available on an “occurrence” basis it shall be provided on a “claims made” basis, and all such “claims made” policies shall provide that:

a. Policy retroactive dates coincide with or precede the vendor’s provision of goods or start of the performance of the services (including subsequent policies purchased as renewals or replacements);

b. The vendor will maintain similar insurance for at least six (6) years following final acceptance of the goods or services;

c. If the insurance is terminated for any reason, the vendor agrees to purchase an unlimited extended reporting provision to report claims arising from the goods provided or services performed for the county; and

d. Immediate notice shall be given to the county through the department head and the county attorney of circumstances or incidents that might give rise to future claims with respect to the goods provided or services performed under this agreement.

ARTICLE 14 INDEMNIFICATION

The vendor agrees to defend, indemnify and hold harmless the county, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement). Whether incurred as a result of a claim by a third party or any other person or entity, arising out of the goods provided or services performed pursuant to this agreement which the county, or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of the vendor, its employees, representatives, subcontractors, assignees, or agents.

In the event that any claim is made or any action is brought against the county arising out of the negligence, fault, act or omission of an employee, representative, subcontractor, assignee or agent of the vendor either within or without the scope of his respective employment, representation, subcontract, assignment or agency, or arising out of the vendor’s negligence, fault, act or omission, then the county shall have the right to withhold further payments hereunder for the purpose of set-off in sufficient sums to cover the said claim or action. The rights and remedies of the county provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provide by law or this agreement.

ARTICLE 15 PROTECTION OF COUNTY PROPERTY

The vendor assumes the risk of and shall be responsible for, any loss or damage to county property, including property and equipment leased by the county, used in the performance of this agreement and caused, either directly or indirectly by the acts, conduct, omissions or lack of good faith of the vendor, its officers, directors, members, partners, employees, representatives or assignees, or any person, firm, company, agent or others engaged by the vendor as an expert consultant specialist or subcontractor hereunder.

In the event that any such county property is lost or damaged, except for normal wear and tear, then the county shall
have the right to withhold further payments hereunder for the purposes of set-off in sufficient sums to cover such loss or damage.

The vendor agrees to defend, indemnify and hold the county harmless from any and all liability or claim for loss, cost, damage or expense (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such county property described in this article.

The rights and remedies of the county provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or by this agreement.

ARTICLE 16 TERMINATION
The county may, by written notice to the vendor effective upon mailing, terminate this agreement in whole or in part at any time (1) for the county’s convenience, (2) upon the failure of the vendor to comply with any of the terms or conditions of this agreement, or (3) upon the vendor becoming insolvent or bankrupt.

Upon termination of this agreement, the vendor shall comply with any and all county closeout procedures, including, but not limited to:

A. Accounting for and refunding to the county within thirty (30) days, any unexpended funds which have been paid to the vendor pursuant to this agreement; and

B. Furnishing within thirty (30) days an inventory to the county of all equipment, appurtenances and property purchased by the vendor through or provided under this agreement, and carrying out any county directive concerning the disposition thereof.

In the event the county terminates this agreement, in whole or in part, as provided in this article, the county may procure upon such terms and in such manner as deemed appropriate, services similar to those so terminated, and the vendor shall continue the performance of this agreement to the extent not terminated hereby. If this agreement is terminated in whole or in part for other than the convenience of the county, any goods or services procured by the county to complete the provision or services herein will be charged to the vendor and/or set off against any sums due the vendor.

Notwithstanding any other provisions of this agreement, the vendor shall not be relieved of liability to the county for damages sustained by the county by virtue of the vendor’s breach of the agreement or failure to perform in accordance with applicable standards, and the county may withhold payments to the vendor for the purposes of set-off until such time as the exact amount of damages due to the county from the vendor is determined.

The rights and remedies of the county provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or by this agreement.

ARTICLE 17 GENERAL RELEASE
The acceptance by the vendor or its assignees of the final payment under this agreement, whether by claimant’s certification form, judgment of any court of competent jurisdiction, or administrative means shall constitute and operate as a general release to the county from any and all claims of the vendor arising out of the performance of this agreement.

ARTICLE 18 SET-OFF RIGHTS
The County of Oswego shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the county’s right to withhold for the purposes of set-off any monies otherwise due to the vendor (i) under this agreement, (ii) under any other agreement or contract with the county, including any agreement or contract for a term commencing prior to or after the term of this agreement, or (iii) from the county by operation of law. The county also has the right to withhold any monies otherwise due under this agreement for the purposes of set-off as to any amounts due and owing to the county for any reason whatsoever including, without limitation, real property tax delinquencies, hotel/motel tax delinquencies, sales tax delinquencies, fee delinquencies, fines, lawful charges, monetary penalties or interest relative thereto.
ARTICLE 19 NO ARBITRATION
Any and all disputes involving this agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed thereto in writing by the chairman of the legislature of county, but must instead only be heard in the supreme court of the State of New York, with venue in Oswego County or if appropriate, in the federal district court with venue in the northern district of New York, Syracuse division.

ARTICLE 20 GOVERNING LAW
This agreement shall be governed by the laws of the state of New York. The vendor shall render all goods or services under this agreement in accordance with applicable provisions of all federal, state and local laws, rules and regulations as are in effect at the time such goods or services are rendered.

ARTICLE 21 ACCEPTANCE OF SUBSTITUTED SERVICE
The vendor hereby consents and agrees to accept to substituted service of process via first class mail to the above referenced address of any summons, process or pleading pertaining to or arising from litigation concerning this agreement in lieu of any other methods authorized by the New York civil practice law and rules. Service of process shall be deemed to be complete upon mailing same. This provision shall survive the termination of this agreement and shall not be construed requiring substituted service, should the county elect to commence litigation by other means provided for by law. The county does not waive personal service herein and will require service of process in conformity with cplr§311(4).

ARTICLE 22 TAXES
The County of Oswego is exempt from the payment of sales and compensating use taxes, manufacturer’s excise taxes and all other taxes imposed by the State of New York and the federal government. Taxes shall not be included in any contract or proposed price. A tax exempt certificate will be executed upon the vendor’s request.

ARTICLE 23 CURRENT OR FORMER COUNTY EMPLOYEES
The vendor represents and warrants that it shall not retain the services of any county employee or former county employee in connection with this agreement or any other agreement that said the vendor has or may have with the county without the express written permission of the County of Oswego. This limitation covers the preceding two (2) years or longer if the county employee or former county employee has or may have an actual or perceived conflict of interest due to their position with the county.
For a breach or violation of such representations or warranties, the county shall have the right to annul this agreement without liability, entitling the county to recover all monies paid hereunder and the vendor shall not make claim for or be entitled to recover, any sum or sums otherwise due under this agreement. This remedy, if effected, shall not constitute the sole remedy afforded the county for such falsity or breach, not shall it constitute a waiver of the county’s right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this agreement.

ARTICLE 24 ENTIRE AGREEMENT
The rights and obligation of the parties and their respective agents, successors and assignees shall be subject to and governed by this agreement, including any attachments, which supersedes any other understandings or writings between or among the parties.

ARTICLE 25 MODIFICATION
No changes, amendments or modifications of any of the terms and/or conditions of this agreement shall be valid unless reduced to writing and signed by the party to be bound. Changes in the scope of goods or services provided covered by this agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such provision or services, the chairman of the legislature of the county, after consultation with the department head, executes an addendum or change order to this agreement, which addendum or change order shall specifically set forth the scope of such extra or additional goods or services and the amount of compensation and the extension of the time for performance, if any, for any such goods or services. Unless otherwise specifically provided for therein, the provisions of this agreement shall apply with all force and effect to the terms and conditions contained in such addendum or change order.

ARTICLE 26 EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In
Bid #3-17 Glass Spheres

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

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

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

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

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

ARTICLE 27: IRANIAN ENERGY SECTOR DIVESTMENT

27.1 Contractor/Proposer hereby represents that said Contractor/Proposer is in compliance with New York State General Municipal Law Section 103-g entitled “Iranian Energy Sector Divestment”, in that said Contractor/Proposer has not:

(a) Provided goods or services of $20 Million or more in the energy sector of Iran including but not limited to the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or

(b) Acted as a financial institution and extended $20 Million or more in credit to another person for forty-five days or more, if that person’s intent was to use the credit to provide goods or services in the energy sector in Iran;

27.2 Any Contractor/proposer who has undertaken any of the above and is identified on a list created pursuant to Section 165-a (3)(b) of the New York State Finance Law as a person engaging in investment activities in Iran, shall not be deemed a responsible proposer pursuant to Section 103 of the New York State General Municipal Law.

27.3 Except as otherwise specifically provided herein, every Contractor/Proposer submitting a bid/proposal in response to this Request for Proposals must certify and affirm the following under penalties of perjury:
Bid #3-17 Glass Spheres

(a) “By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief, that each bidder is not on the list created pursuant to NYS Finance Law Section 165-a (3)(b).” Oswego County will accept this statement electronically in accordance with the provisions of Section 103 of the General Municipal Law.

27.4 Except as otherwise specifically provided herein, any Bid/Proposal that is submitted without having complied with subdivision (a) above, shall not be considered for award. In any case where the Bidder/Proposer cannot make the certification as set forth in subdivision (a) above, the Bidder/Proposer shall so state and shall furnish with the bid a signed statement setting forth in detail the reasons therefore. The County reserves its rights, in accordance with General Municipal Law Section 103-g to award the Bid/Proposal to any Bidder/Proposer who cannot make the certification, on a case-by-case basis under the following circumstances:

(1) The investment activities in Iran were made before April 12, 2012, the investment activities in Iran have not been expanded or renewed after April 12, 2012, and the Bidder/Proposer has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) The County of Oswego has made a determination that the goods or services are necessary for the County to perform its functions and that, absent such an exemption, the County of Oswego would be unable to obtain the goods or services for which the Bid/Proposal is offered. Such determination shall be made by the County in writing and shall be a public document.

VENDOR BID REPLY SHEET FOR

BID #3-17- GLASS SPHERES

Bids are due at 2:00 p.m., Thursday, March 9, 2017 at the County of Oswego Department of Purchasing in the Oswego County Office Building, 46 East Bridge Street, Oswego, New York 13126.

THE COUNTY RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS.

The undersigned hereby certifies that he has examined and fully comprehends the requirements and intent of the specifications for the GLASS SPHERES as cited in the specifications and offers to furnish the following materials for the TOTAL NET COST as follows:

<table>
<thead>
<tr>
<th>REFLECTORIZED GLASS SPHERES FOR PAVEMENT MARKING</th>
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</thead>
<tbody>
<tr>
<td>Type I – Glass Spheres (with Moisture Resistant Coating )</td>
</tr>
<tr>
<td>For Reflectorized Pavement Marking complete as per specification</td>
</tr>
<tr>
<td>Price per Pound</td>
</tr>
<tr>
<td>Full Truckload Quantity of 44,000 lbs. or more:</td>
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</tbody>
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Bid #3-17 Glass Spheres

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<tr>
<th></th>
<th>Packaged in 50 lb. bags:</th>
<th>Packaged in 2000 lb. cartons:</th>
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**Less than Truckload Quantity of 22,000 lbs. to 43,950 lbs.:**

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<th>Packaged in 50 lb. bags:</th>
<th>Packaged in 2000 lb. cartons:</th>
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**Less than Truckload Quantity of 10,000 to 21,950 pounds:**

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<th>Packaged in 50 pound bags:</th>
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</table>

Federal ID Number: _____________

State deviations from bid specifications ____________________________________________

The undersigned declares that he/she has examined the Notice, Information, Specifications and Request for Bid and will furnish equipment, materials or services in compliance with same for price set forth.

____________________________________  ______________________________________
Print or Type Name  Company

____________________________________  ______________________________________
Title  Address

____________________________________
Authorized Signature

____________________________________  ______________________________________
Date  Telephone#  Fax#
Bid #3-17 - GLASS SPHERES

NON-COLLUSIVE BIDDING CERTIFICATION

General Municipal Law§103-d

(a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as its own organization, under penalty of perjury, that to the best of knowledge and belief:

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

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

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

(b) A bid shall not be considered for award nor shall any award be made where (a)-(1), (2) and (3) have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where(a)-(1), (2) and (3) have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder (a) has published price lists, rates or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same time prices being bid, does not constitute, without more, a disclosure within the meaning of paragraph (a) of this certification.

By submission of this bid, the undersigned hereby affirms the truth of the foregoing certification under the penalties of perjury.

__________________________________________
Company

__________________________________________
Type or Print Name

__________________________________________
Date

__________________________________________
Title

__________________________________________
Authorized Signature
Bid #3-17 - GLASS SPHERES

VENDOR INFORMATION REQUIREMENTS

IN ADDITION TO THE INFORMATION SUPPLIED ON THE BID SHEET, PLEASE COMPLETE THE FOLLOWING, WHICH WILL BE USED IF YOU ARE AWARDED A CONTRACT.

PAYMENT TERMS: __________________________ FEDERAL ID NUMBER: ________________

DELIVERY WILL BE MADE _________________ DAYS A.R.O.

SEND ORDERS TO:
Address: ________________________________________________________________

______________________________________________________________________

Phone: (______) __________________________________________

INVOICES WILL BE FROM:
Address: ________________________________________________________________

______________________________________________________________________

PERSON TO CONTACT IN REFERENCE TO CONTRACT:
Name: Address: Phone: (______) Fax (______) __________________

WARRANTY SERVICE WILL BE PROVIDED BY:
Name: Address: Phone: (______) Fax (______) __________________

ANY SPECIAL ORDERING INFORMATION:

SALES REPRESENTATIVES WHO WILL SERVE OSWEGO COUNTY AREA:
Name:
Phone:
Website:
E-Mail:

__________________________________________  ____________________________
COMPANY NAME                                    SIGNATURE
RESOLUTION FOR CORPORATIONS ONLY

Resolved that __________________________ (individual) is authorized to sign and submit the bid or proposal of this corporation for the following project:

**Bid #3-17 - GLASS SPHERES**

and to include in such bid or proposal the certificate as to non-collusion required by Section 103-D of the General Municipal Law as the act and deed of such corporation and for any inaccuracies or misstatements in such certificate this corporate bidder shall be liable under the penalties of perjury, and to enter into the contract if awarded to this corporation:

The foregoing is a true and correct copy of the resolution adopted by Corporation at a meeting of its Board of Directors held on the _______________ day of ________________________, ____________, and is still in force on this _______________ day of ________________________, 2017.

Secretary

(Seal of Corporation)
Bid #3-17 - GLASS SPHERES

NON-BIDDERS RESPONSE

The Oswego County Purchasing Department is interested in the reasons why prospective bidders fail to submit bids. Failure to submit a bid without explanation may result in removal of your firm from our bidders’ list. If you are NOT submitting a bid in this proposal, please indicate the reason(s) by checking off one or more of the items below and return this form to the above address.

1. Unable to bid at this time, but would like to receive future bid requests.

2. Items or material not manufactured, distributed, stocked, furnished.

3. Materials or items we have to offer do not fully meet all the requirements of standards specified.

4. Specifications not clearly understood or applicable as follows: (ex.: too vague, too rigid, etc.)

5. We cannot meet the time of delivery of items or materials specified.

6. Insufficient time allowed for preparation and submission of bid.

7. Other reasons:

You may remove our name from the bid list for:

1. This Commodity Group

2. This Item or Material

3. All Bids

Type or Print Name

Company

Title

Address

Authorized Signature

( ) Telephone Number

Date

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