

TOWN OF WEST SENECA



SHEILA M. MEEGAN  
TOWN SUPERVISOR

To: Fellow Town Board Members  
From: Sheila M. Meegan, Town Supervisor  
Date: July 10, 2014  
Re: **STOP-DWI Contract 2014-2016**

Kindly move to authorize the Supervisor to sign the attached STOP-DWI Contract 2014-2016 between the County of Erie and the Town of West Seneca.



# County of Erie

MARK C. POLONCARZ  
COUNTY EXECUTIVE

## DEPARTMENT OF CENTRAL POLICE SERVICES STOP-DWI

Supervisor Sheila A. Meegan  
Town of West Seneca  
1250 Union Road West Seneca, NY 14224  
June 26, 2014

Re: STOP-DWI Contract 2014 to 2016

Dear Supervisor Meegan:

Enclosed please find three copies of an agreement between your municipality and the County of Erie. This is a renewal agreement, replacing one that expired December, 2013, and will run for a three year term of January 1, 2014 through December 31, 2016. The agreement permits the County to convey to your municipality the collected fine revenue derived from DWI arrests initiated by your police department.

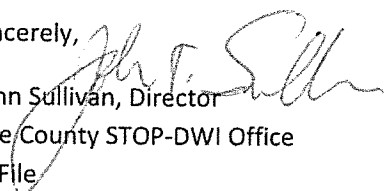
A new contract period is an appropriate time to review the "Maintenance of Effort" requirements that come along with STOP-DWI funds. STOP-DWI fine revenue is restricted funding according to New York Vehicle and Traffic Law §1197 and Regulatory Codes of the State Commissioner of Motor Vehicles. STOP-DWI funding is not a revenue sharing program but intended to supplement regular, ongoing expenditures by a municipality in the area of DWI enforcement. STOP-DWI revenue cannot be used to supplant expenditures previously supported by other funding sources. It is to provide resources for extra, supplemental activity that is otherwise not possible given regular, tax derived funding levels.

Adhering to this posture regarding STOP-DWI funds is important to our effort. These extra resources permit your police agency to perform the kind of active, inventive, high visibility enforcement that deters the public from drinking and driving. We have reduced DWI fatalities over 65% using this model.

I appreciate your continued efforts in support of your police agency and look forward to working toward our mutual goal of preventing DWI and its ugly consequences.

As always, if you have any questions regarding the agreement or suggestions for improving our effort, I will be glad to hear from you at [John.Sullivan@erie.gov](mailto:John.Sullivan@erie.gov) or (716) 858-6727.

Sincerely,

  
John Sullivan, Director  
Erie County STOP-DWI Office  
C: File

Enc. 3 contracts and checklist

**Police and Court  
Stop-DWI 2014-2016**

**THIS AGREEMENT**, made and entered into as of the 1st day of January, 2014, by and between the COUNTY OF ERIE, a municipal Corporation of the State of New York, with offices at 95 Franklin Street, Buffalo, New York, 14202, hereinafter referred to as the COUNTY, party of the first part, and the **TOWN OF WEST SENECA** a municipal corporation of the State of New York partly in Erie County, with **1250 Union Road West Seneca, NY 14224** hereinafter referred to as the MUNICIPALITY, party of the second part.

**WITNESSETH:**

**WHEREAS**, the COUNTY, pursuant to the authority granted to it by Article 31 of the Vehicle and Traffic Law, has established a special traffic options program for driving while intoxicated (STOP-DWI) and has formulated a plan thereunder for the coordination of county, town, city and village efforts to reduce alcohol-related traffic injuries and fatalities, and

**WHEREAS**, the MUNICIPALITY, through its police agency, has made formal application to the Erie County STOP-DWI Coordinator for the funding of certain alcohol traffic safety law enforcement activities in Erie County during the period from January 1, 2014 to December 31, 2016, which application is attached hereto and made a part hereof as Appendix "A", and

**WHEREAS**, a Justice Court has been established in and for the MUNICIPALITY with jurisdiction to hear and determine cases involving alleged violations of Section 1192, Section 511(2)(a)(ii) and (iii) and Section 511(3)(i) of the Vehicle and Traffic Law.

**NOW, THEREFORE, IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES:**

**FIRST:**

During the term of this Agreement, the MUNICIPALITY, as an independent contractor, agrees to engage in the alcohol traffic safety law enforcement activities set forth in the annexed Appendix "A".

**SECOND:**

For purposes of this paragraph:

- (i) "DWI case" shall mean a criminal action commenced in any court within Erie County wherein a person is charged with a violation of Section 1192, Section 511(2)(a)(ii) or (iii) or Section 511(3)(i) of the Vehicle and Traffic Law.
- (ii) "net STOP-DWI collections" shall mean the amount of fines, penalties and forfeitures collected by any court, judge, magistrate or other judicial officer within Erie County for violations of Section 1192, Section 511(2)(a)(ii) or (iii) or Section 511(3)(i) of the Vehicle and Traffic Law after deducting therefrom the amount of refunds made by reason of judicial mandate (e.g., appellate reversal of conviction, reduction of fine, etc.) and after deducting therefrom the percentage or amount withheld for deposit to the credit of the state STOP-DWI coordinating fund or for state operating and administrative expenses (i.e., any state assessment against fine revenues otherwise payable to Erie County pursuant to Section 1197(1) of the Vehicle and Traffic Law).

Within one hundred eighty (180) days after the close of each calendar year of this Agreement, the County agrees to pay the MUNICIPALITY, subject to the provisions of paragraph THIRD hereof, a sum not to exceed the lesser of either:

- (i) The MUNICIPALITY's actual expenses, as certified by the MUNICIPALITY upon forms acceptable to the COUNTY, in carrying out, during the term of this agreement, the alcohol traffic safety law enforcement activities set forth in Appendix "A"; or
- (ii) sixty-five percent (65%) of the net STOP-DWI collections actually paid over and received by the COUNTY during the prior calendar year during term of this Agreement, provided that such collections have resulted from convictions obtained in DWI cases commenced by the MUNICIPALITY's police agency;

**THIRD:**

For purposes of this paragraph:

- (i) "DWI case" shall mean a criminal action commenced in any court within Erie County wherein a person is charged with a violation, or multiple violations involving the same person and arising out of the same incident, of Section 1192, Section 511(2)(a)(ii) or (iii) or Section 511(3)(i) of the Vehicle and Traffic Law;
- (ii) "finally disposed of" and "final disposition" shall mean the termination of a DWI case at the trial court level by reason of a dismissal, acquittal or conviction and imposition of sentence by the trial court, but shall not include the removal or transfer of a DWI case to another court.

Within one hundred eighty (180) days after the close of each calendar year of this Agreement, the COUNTY agrees to pay the MUNICIPALITY, for the services of the MUNICIPALITY's Justice Court, the sum of TEN DOLLARS (\$10.00) for each DWI case finally disposed of during the prior calendar year during the term of this agreement which was commenced by either the Erie County Sheriff's Office or the New York State Police. The said case regardless of the final disposition thereof.

The MUNICIPALITY agrees that the COUNTY, on behalf of the MUNICIPALITY, shall allocate and pay out, from the sums payable to the MUNICIPALITY under paragraph SECOND) hereof, the sum of TEN DOLLARS (\$10.00) for each DWI case commenced by the Municipality's police agency which was finally disposed of during the prior term of this agreement. The said sum shall be paid by the COUNTY to the town or village in whose Justice Court the DWI case was finally disposed of and shall be payable regardless of the final disposition thereof.

**FOURTH:**

- A. The MUNICIPALITY, through its police agency, agrees to compile information and render monthly reports, in a form acceptable to the County, to the Erie County STOP-DWI Coordinator with respect to:
- (i) The MUNICIPALITY's actual expenses in carrying out the alcohol traffic safety law enforcement activities set forth in Appendix "A",
  - (ii) All alcohol-related traffic accidents investigated by the MUNICIPALITY's police agency (including copies of MV-104A forms) prepared in connection therewith
  - (iii) All DWI cases involving alleged violation(s) of Section 1192, Section 511(3)(i) or 511(2)(a)(ii) or (iii), of the Vehicle and Traffic Law commenced by the MUNICIPALITY's police agency in any court in Erie County
- B. The MUNICIPALITY, through its Justice Court with jurisdiction to hear and determine DWI cases, agrees to compile information and render monthly reports to the Erie County STOP-DWI Coordinator with respect to all DWI cases finally disposed of {as those terms are defined in paragraph THIRD(i) and (ii), but including cases removed or transferred} in the MUNICIPALITY's Justice Court.

- C. The MUNICIPALITY acknowledges that the determination by the COUNTY of the amounts payable to the MUNICIPALITY under paragraphs SECOND and THIRD of this Agreement is dependent upon the timely receipt by the Erie County STOP-DWI Coordinator of accurate information from the MUNICIPALITY. Accordingly, the MUNICIPALITY agrees that, as a condition precedent to its rights to payment under this Agreement, it shall fully complete and forward to the Erie County STOP-DWI Coordinator each of the monthly reports required under this paragraph within 15 (fifteen) days after the last day of each monthly period to which such reports relate.

**FIFTH:**

The County agrees to reimburse the MUNICIPALITY overtime wages, excluding benefits, for officers authorized to staff extra effort DWI Sobriety Checkpoints and Roving Patrols, subject to the provisions of paragraph THIRD hereof, and guidelines of attached Appendix A, in a sum not to exceed the lesser of either: The actual wages paid to the officers, or \$47.00/hour/number of authorized hours.

**SIXTH:**

The County agrees to pay the MUNICIPALITY full overtime wages, excluding benefits, for officers of the Erie County Drug Recognition Expert (DRE) Corps called out in mutual aid to another police agency, or called in on overtime to their own department, or at training to maintain DRE Certification, subject to the provisions of paragraph THIRD hereof and guidelines of attached Appendix A. DRE Officers on regular duty, in service to their own agency, shall not be eligible for reimbursement.

**SEVENTH:**

The County agrees to pay the MUNICIPALITY full overtime wages, excluding benefits, for officers of the Erie County Crash Response Team (CRT) called out in mutual aid to another police agency, or called in on overtime to their own department, or at training to maintain CRT Certification, subject to the provisions of paragraph THIRD hereof, and regulations of attached

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Appendix A. CRT Officers on regular duty, in service to their own agency, shall not be eligible for reimbursement.

**EIGHTH:**

This Agreement is executory only to the extent of monies available to the COUNTY for the performance hereof and appropriated therefor, being monies in a separate account entitled "Special Traffic Options Program for Driving While Intoxicated" established and funded pursuant to Sections 1197 and 1803 of the Vehicle and Traffic Law, and the COUNTY shall incur no liability on account of this Agreement beyond such monies.

**NINTH:**

In the event the Erie County STOP-DWI Program, as approved by the Commissioner of the New York State Department of Motor Vehicles, is terminated before the COUNTY has paid to the MUNICIPALITY all of the sums otherwise payable under the terms of this Agreement, the provisions of Section 1197(9) of the Vehicle and Traffic Law with respect to program cessation shall govern for purposes of determining the availability of such sums for payment to the MUNICIPALITY.

**TENTH:**

The MUNICIPALITY shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement or of any rights, title or interest herein, nor of the power to execute the same or any extension hereof to any other person or corporation without the previous consent in writing of the COUNTY.

**ELEVENNTH:**

The MUNICIPALITY agrees to comply with all applicable laws of the State of New York, the United States and the County of Erie, including laws against discrimination, and with all rules and regulations of pertinent authorities having jurisdiction.



**TWELVETH:**

The MUNICIPALITY shall be fully accountable for its performance under this Agreement and agrees for itself and its officers to answer under oath all questions relevant to the performance thereof and to any transactions, act or omission in connection therewith if called before any Judicial, County, State or Federal agency empowered to investigate the Agreement or its performance.

**THIRTEENTH:**

The MUNICIPALITY agrees to furnish verified accounts of its disbursements hereunder, with certified or verified invoices thereto attached at such times and in such form and detail as may be required by the Erie County Comptroller, who may at his/her option audit the pertinent books and records of the MUNICIPALITY, and a final account within thirty (30) days after the termination of this Agreement.

**FOURTEENTH:**

The MUNICIPALITY agrees to defend, hold harmless and indemnify the COUNTY against any and all liability, claims, demands, suits and judgments arising out of the performance of the MUNICIPALITY's obligations under this Agreement. The MUNICIPALITY further agrees to maintain insurance coverage(s) during the term of this Agreement and to submit certificates of insurance in accordance with County Vendor Classification C - "Professional Services" appearing on Appendix "B" annexed hereto. For purposes of this Agreement, the County must be included as an additional named insured on the Municipality's insurance policies. For purposes of this Agreement, the MUNICIPALITY need not provide proof of professional liability insurance coverage. At the request of the MUNICIPALITY and with the consent of the Erie County Attorney, the Erie County STOP-DWI Coordinator may waive the excess and/or umbrella liability insurance coverage(s), or reduce the amount(s) thereof, otherwise required under this paragraph. In lieu of proof of insurance coverage, the MUNICIPALITY may furnish evidence of a self-insurance plan acceptable to the Erie County Attorney.

**FIFTEENTH:**

Consistent with the MUNICIPALITY's status as an independent contractor, the COUNTY shall not be responsible for Worker's Compensation benefits, Social Security coverage or unemployment insurance benefits with respect to the MUNICIPALITY.

**SIXTEENTH:**

This Agreement, or any renewal thereof, may be terminated by either party upon at least thirty (30) days prior notice. Such notice shall be provided in writing to the chief executive officer of the other party at the address appearing on the first page of this Agreement.

**SEVENTEENTH:**

Provided that the MUNICIPALITY shall have made formal application for the continued funding of its alcohol traffic safety law enforcement activities, this Agreement may be renewed for such additional twelve (12) month terms as may be mutually agreed upon by the parties through their respective legislative bodies.

**EIGHTEENTH:**

All reporting, insurance, and payment requirements provided herein are to be processed on an annual basis regardless of the term of the agreement or any renewals hereto.

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This agreement is executed by the COUNTY pursuant to a resolution adopted by the Legislature of the County of Erie at its meeting held on December 3, 2013 and by the MUNICIPALITY pursuant to a resolution of its governing body adopted at a meeting of said governing body held on \_\_\_\_\_, a certified copy of the MUNICIPALITY'S resolution being annexed hereto as Appendix "C":

TOWN OF WEST SENECA

County of Erie

By: \_\_\_\_\_

By: \_\_\_\_\_

Sheila A. Meegan, SUPERVISOR

Mark C. Poloncarz/Richard Tobe  
Erie County Executive/Deputy County Executive

APPROVED AS TO CONTENT:

By: ELECTRONICALLY SIGNED  
John Glascott, Commissioner  
Erie County Central Police Services

By: \_\_\_\_\_  
John F. Sullivan  
STOP-DWI Coordinator

APPROVED AS TO FORM:

By: ELECTRONICALLY SIGNED  
Gregory Kammer  
Assistant County Attorney

Document No. \_\_\_\_\_

Date: \_\_\_\_\_