

D'Arcangelo & Co., LLP

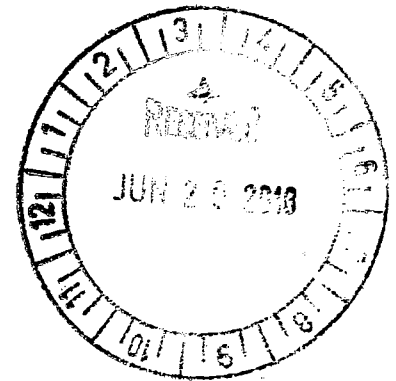
Certified Public Accountants & Consultants

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To the Board of Directors
Economic Development Growth Enterprises Corporation and its Subsidiaries

We have audited the consolidated financial statements of Economic Development Growth Enterprises Corporation and its Subsidiaries for the year ended December 31, 2017, and have issued our report thereon dated April 20, 2018. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards, *Government Auditing Standards* and Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated December 18, 2017. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by Economic Development Growth Enterprises Corporation and its Subsidiaries are described in Note 1 to the consolidated financial statements. No new accounting policies were adopted and the application of existing policies was not changed during 2017. We noted no transactions entered into by the Organization during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the consolidated financial statements in the proper period.

Accounting estimates are an integral part of the consolidated financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the consolidated financial statements and because of the possibility that future events affecting them may differ significantly from those expected.

The most sensitive estimates affecting the consolidated financial statements are the estimates involving depreciation lives and methods used and the allowance for doubtful accounts. We evaluated the key factors and assumptions used to develop these estimates in determining that they are reasonable in relation to the consolidated financial statements taken as a whole.

The consolidated financial statement disclosures are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material either individually or in the aggregate, to the consolidated financial statements taken as a whole.

Disagreements with Management

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the consolidated financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated April 20, 2018.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the Organization's consolidated financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the Organization's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Matters

With respect to the schedule of expenditures of federal awards and other supplementary information accompanying the consolidated financial statements, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with the Uniform Guidance and U.S. generally accepted accounting principles, respectively, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the consolidated financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the consolidated financial statements or to the consolidated financial statements themselves.

This information is intended solely for the use of the Audit Committee, The Board of Directors, and management of Economic Development Growth Enterprises Corporation and its Subsidiaries and is not intended to be, and should not be, used by anyone other than these specified parties.

D'Arcangelo & Co., LLP

April 20, 2018

Utica, New York

ECONOMIC DEVELOPMENT
GROWTH ENTERPRISES
CORPORATION AND ITS
SUBSIDIARIES

For the Year Ended
December 31, 2017

CONSOLIDATED FINANCIAL
STATEMENTS, CONSOLIDATING
SCHEDULES, AND COMPLIANCE
REPORTS

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

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Independent Auditor's Report

Board of Directors

Economic Development Growth Enterprises Corporation and its Subsidiaries

Report on the Financial Statements

We have audited the accompanying consolidated financial statements of Economic Development Growth Enterprises Corporation (a nonprofit organization) and its Subsidiaries, which comprise the consolidated statements of financial position as of December 31, 2017 and 2016, and the related consolidated statements of activities, and cash flows for the years then ended, and the related notes to the consolidated financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The subsidiaries, 394 Hangar Road Corporation and 5900 Success Drive Realty, LLC, were not audited in accordance with *Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the organization's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the organization's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Economic Development Growth Enterprises Corporation and its Subsidiaries as of December 31, 2017 and 2016, and the changes in their net assets and their cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Report on Supplementary Information

Our audits were conducted for the purpose of forming an opinion on the consolidated financial statements as a whole. The consolidating schedules, as listed in the table of contents, are presented for purposes of additional analysis of the consolidated financial statements rather than to present the financial position, results of operations, and cash flows of the individual companies, and are not a required part of the consolidated financial statements. In addition, the accompanying Schedule of Expenditures of Federal Awards, as required by Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, is also presented for purposes of additional analysis and is not a required part of the consolidated financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the consolidated financial statements. The information has been subjected to the auditing procedures applied in the audit of the consolidated financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the consolidated financial statements or to the consolidated financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the consolidating schedules and Schedule of Expenditures of Federal Awards are fairly stated, in all material respects, in relation to the consolidated financial statements as a whole.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated April 20, 2018 on our consideration of Economic Development Growth Enterprises Corporation's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering Economic Development Growth Enterprises Corporation's internal control over financial reporting and compliance.

D'Arcangelo + Co., LLP

April 20, 2018

Utica, New York

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

CONSOLIDATED STATEMENTS OF FINANCIAL POSITION

December 31, 2017 and 2016

Assets	<u>2017</u>	<u>2016</u>
Current Assets		
Cash and Cash Equivalents	\$ 4,161,073	\$ 3,674,613
Restricted Cash	14,144,508	5,742,315
Grants Receivable	9,542,879	10,134,293
Capital Leases Receivable, Net - Current	8,440	0
Other Receivables	21,299	268,492
Prepaid Expenses - Current	260,016	262,056
Notes Receivable, Net - Current	<u>108,017</u>	<u>256,783</u>
Total Current Assets	<u>28,246,232</u>	<u>20,338,552</u>
Investments and Other Long-Term Assets		
Deferred Compensation Investments	61,620	39,759
Deposits	394,327	390,819
Capital Leases Receivable, Net	78,384	0
Prepaid Expenses	1,044,421	1,334,767
Notes Receivable, Net	<u>596,287</u>	<u>1,145,411</u>
Total Investments and Other Long-Term Assets	<u>2,175,039</u>	<u>2,910,756</u>
Capital Related Assets		
Lease Acquisition Costs, Net	2,965,008	3,439,984
Property and Equipment, Net	<u>13,488,541</u>	<u>13,944,108</u>
Total Capital Related Assets	<u>16,453,549</u>	<u>17,384,092</u>
Total Assets	<u>\$ 46,874,820</u>	<u>\$ 40,633,400</u>

(Continued)

The Accompanying Notes are an Integral Part of These Consolidated Financial Statements.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

CONSOLIDATED STATEMENTS OF FINANCIAL POSITION

December 31, 2017 and 2016

(Continued)

	<u>2017</u>	<u>2016</u>
Liabilities and Net Assets		
Current Liabilities		
Accounts Payable and Accrued Liabilities	\$ 1,050,701	\$ 2,334,594
Refundable Advances	15,840,718	6,765,952
Deferred Revenue and Agency Funds	95,778	54,924
Lines of Credit	5,438,835	4,951,149
Current Maturities of Long-Term Debt	<u>266,517</u>	<u>263,773</u>
Total Current Liabilities	<u>22,692,549</u>	<u>14,370,392</u>
Long-Term Liabilities		
Deferred Tax Liability	1,726	4,709
Compensated Absences	82,609	91,533
Deferred Compensation Obligation	61,620	39,759
Long-Term Debt	<u>1,570,560</u>	<u>1,825,332</u>
Total Long-Term Liabilities	<u>1,716,515</u>	<u>1,961,333</u>
Net Assets		
Unrestricted	22,405,406	<u>24,241,325</u>
Permanently Restricted	<u>60,350</u>	<u>60,350</u>
Total Net Assets	<u>22,465,756</u>	<u>24,301,675</u>
Total Liabilities and Net Assets	<u>\$ 46,874,820</u>	<u>\$ 40,633,400</u>

The Accompanying Notes are an Integral Part of These Consolidated Financial Statements.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

CONSOLIDATED STATEMENTS OF ACTIVITIES

For the Years Ended December 31, 2017 and 2016

	<u>2017</u>	<u>2016</u>
Support and Revenue		
Federal and State Government Grants	\$ 28,832,753	\$ 31,971,650
Service Contracts	1,461,560	1,686,624
Lease Income	1,434,002	1,274,640
Local Business Grants	254,173	687,000
Local Business Contributions	353,473	412,345
Refunds, Reimbursements, and Deposits	180,973	5,232
Loan Interest Income	37,075	52,221
Investment Income, Net	12,114	10,906
Other Income	<u>2,583</u>	<u>7,084</u>
Total Support and Revenue	<u>32,568,706</u>	<u>36,107,702</u>
 Expenses Before Depreciation and Amortization Expense		
Program Services		
Property Development Program	30,838,882	33,471,410
Business Development	1,033,861	1,575,756
Revolving Loan Program	660,209	149,824
Supporting Services		
Management and General	<u>923,916</u>	<u>1,056,256</u>
Total Expenses Before Depreciation and Amortization Expense	<u>33,456,868</u>	<u>36,253,246</u>
 (Decrease) in Net Assets before Depreciation and Amortization Expense	<u>(888,162)</u>	<u>(145,544)</u>
 Depreciation and Amortization Expense	<u>947,757</u>	<u>946,914</u>
 (Decrease) in Net Assets	<u>(1,835,919)</u>	<u>(1,092,458)</u>
 Net Assets, Beginning of Year	<u>24,301,675</u>	<u>25,394,133</u>
 Net Assets, End of Year	<u>\$ 22,465,756</u>	<u>\$ 24,301,675</u>

The Accompanying Notes are an Integral Part of These Consolidated Financial Statements.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

For the Years Ended December 31, 2017 and 2016

	<u>2017</u>	<u>2016</u>
Cash Flows From Operating Activities		
(Decrease) in Net Assets	\$ (1,835,919)	\$ (1,092,458)
Adjustments for Noncash Transactions		
Depreciation and Amortization	947,757	946,914
Non-cash Interest	11,738	11,738
Forgiveness of Notes Receivable	0	250,000
Realized and Unrealized (Gains) on Investments	(3,656)	(3,532)
Change in Deferred Tax Liability	(2,983)	(2,044)
Change in Allowance for Doubtful Accounts	365,000	(43,245)
Loss on Capital Lease	21,053	0
(Increase) Decrease in Assets		
Restricted Cash	(8,402,193)	(5,742,315)
Grants Receivable	591,414	(3,080,772)
Other Assets	174,579	316,651
Increase (Decrease) in Liabilities		
Accounts Payable and Accrued Liabilities	(1,283,893)	(40,452)
Refundable Advances	9,074,766	5,749,841
Other Liabilities	53,791	(133,882)
Net Cash (Used) by Operating Activities	<u>(288,546)</u>	<u>(2,863,556)</u>
Cash Flows From Investing Activities		
Purchase of Deferred Compensation Investments	(45,903)	(18,000)
Proceeds from Sale of Investments	29,403	0
Reinvested Dividends and Interest	(1,705)	(227)
Deposits Held With Trustees	(3,508)	(6,324)
Capital Expenditures	(133,714)	(276,211)
Proceeds from Sale of Land	7,000	0
Loans to Businesses	(83,333)	0
Collections of Loans to Businesses	781,223	1,129,468
Principal Collections on Capital Lease	1,623	0
Net Cash Provided by Investing Activities	<u>551,086</u>	<u>828,706</u>
Cash Flows From Financing Activities		
Net Borrowing (Repayments) under Line of Credit	487,686	3,960,149
Repayments of Long-Term Debt	(263,766)	(502,715)
Net Cash Provided by Financing Activities	<u>223,920</u>	<u>3,457,434</u>
Net Increase in Cash and Cash Equivalents	486,460	1,422,584
Cash and Cash Equivalents, Beginning of Year	<u>3,674,613</u>	<u>2,252,029</u>
Cash and Cash Equivalents, End of Year	<u>\$ 4,161,073</u>	<u>\$ 3,674,613</u>
Supplemental Cash Flows		
Cash Paid During the Year for:		
Interest	\$ <u>139,017</u>	\$ <u>188,242</u>
Income Taxes	\$ <u>11,978</u>	\$ <u>38,642</u>
Non Cash Investing Transactions:		
Capital Lease Receivable in Exchange for Various Equipment	\$ <u>88,447</u>	\$ <u>0</u>

The Accompanying Notes are an Integral Part of These Consolidated Financial Statements.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Operations

Economic Development Growth Enterprises Corporation (EDGE), a New York not-for-profit corporation and its Subsidiaries are involved in activities designed to improve and expand the business community and employment within Oneida and Herkimer Counties, New York, and promote the general economic development of the two Counties. A primary activity of EDGE is the arrangement of and/or participation in financing packages for local businesses, principally through local banks, the Small Business Administration, and Empire State Development. In addition, EDGE prepares economic development plans, performs research, and carries out a unified marketing program for the purpose of advancing economic growth in Oneida and Herkimer Counties. A significant portion of EDGE's revenue is derived from government grants and lease income.

Under separate staff services agreements, EDGE performs administrative services for its subsidiary, 394 Hangar Road Corporation (394 HRC), and eight economic development organizations: Griffiss Local Development Corporation (GLDC) and its subsidiary, Cardinal Griffiss Realty, LLC (CGR), Rome Industrial Development Corporation (RIDC), Utica Industrial Development Corporation (UIDC), Oneida County Industrial Development Agency (OCIDA), and Oneida County Local Development Corporation (OCLDC), and Griffiss Institute (GI), and its subsidiary Cyber Research Institute (CRI). EDGE also provides economic development services to the County of Oneida under separate agreements.

EDGE is also involved in the Title IX Loan Fund, a joint program with the Economic Development Administration (EDA), which is administered by Mohawk Valley Economic Development District, Inc. (MVEDD). The initial capitalization of the fund occurred as loans were made with 25% of the loaned principal coming from EDGE and 75% being funded from EDA. This is a revolving loan fund, where repayments of principal and interest are available to make new loans.

Principles of Consolidation

The consolidated financial statements include the accounts of EDGE and its wholly-owned subsidiaries, 5900 Success Drive Realty, LLC (SDR), a New York limited liability company and 394 Hangar Road Corporation (394 HRC), a New York business corporation. Intercompany transactions have been eliminated.

SDR was formed in July, 2002 with EDGE as its sole member for the purpose of acquiring, and developing for resale, a manufacturing building at 5900 Success Drive in Rome, New York. SDR derived all of its income from a lease with Nortek Powder Coating, LLC (Nortek), until Nortek purchased the building during 2013. 394 HRC was formed in November, 2002, with EDGE as its sole shareholder, for the purpose of acquiring, refurbishing, and leasing hangar facilities located in the Griffiss Business and Technology Park. The common stock has no par value. There are 200 shares authorized of which 10 shares are issued and outstanding, all of which are held by EDGE. 394 HRC derives substantially all of its income from a sublease with Premier Aviation Overhaul Center, Ltd. (Premier).

Basis of Presentation

The consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America. These consolidated financial statements, presented on the accrual basis of accounting, have been prepared to focus on the entities as a whole and present balances and transactions according to the existence or absence of donor-imposed restrictions. This has been accomplished by reporting information regarding financial position and activities according to three classes: permanently restricted, temporarily restricted, or unrestricted.

Contributions and Donations

EDGE reports contributions as unrestricted support, temporarily restricted support, or permanently restricted support, depending on the existence and/or nature of any donor restrictions. Support that is restricted by the donor is reported as an increase in unrestricted net assets if the restriction expires in the reporting period in which the support is recognized. All other donor-restricted support is reported as an increase in temporarily or permanently restricted net assets, depending on the nature of the restriction. When a restriction expires (that is, when a stipulated time restriction ends or purpose restriction is accomplished), temporarily restricted net assets are reclassified to unrestricted net assets and reported in the Consolidated Statement of Activities as net assets released from restrictions. Generally, all contributions received are unrestricted.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Cash and Cash Equivalents

For purposes of the Consolidated Statements of Cash Flows, EDGE and its subsidiaries consider all unrestricted highly liquid investments with an initial maturity of three months or less to be cash equivalents.

Restricted Cash

Restricted cash are funds received as an advance on a grant that are limited in use to payment of costs in connection with the Marcy Nanocenter project at SUNY Polytechnic Institute.

Receivables

Receivables are recorded at cost and stated at unpaid balances, less an allowance for doubtful accounts. An allowance for doubtful accounts was established by 394 HRC at December 31, 2017 for \$365,000, for lease revenue that may ultimately prove to be uncollectible. The basis for the provision is an analysis of current accounts. All other receivables, except Notes Receivable (See Note 8), have been deemed to be fully collectible, and an allowance has not been established.

Property and Equipment

Property and equipment of EDGE and its subsidiaries are recorded at cost, if purchased; and fair market value if donated; and depreciated using the straight-line method based on the estimated useful lives from 3 to 40 years. Purchases for items less than \$1,000 are charged to expense as incurred.

Land and Land held for resale are carried at its cost to acquire plus improvements and are not depreciated.

Lease Acquisition Costs

394 HRC incurred costs to acquire the lease with Empire Aero Center, Inc. (EAC), 394 HRC's previous subtenant, as well as costs to amend and restate the lease with the current subtenant, Premier. These costs are amortized using the straight-line method over the term of the lease or loans (See Note 10).

Investment Valuation and Income Recognition

Deferred compensation investments are recorded at fair value. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. See Note 7 for discussion of fair value measurements.

Purchases and sales of securities are recorded on a trade-date basis. Interest income is recorded on the accrual basis. Dividends are recorded on the ex-dividend date. Net investment income in the statements of activities includes gains and losses on investments bought and sold as well as held during the year.

Refundable Advances

Refundable advances consist of grant monies received during the current period in excess of related expenditures, including program income on grants and capital leases.

Deferred Revenue

Deferred revenue at December 31, 2017 and 2016 consist of cash receipts received in advance. The receipts will be recognized as revenue in the periods to which they relate.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Agency Funds

Agency funds are cash deposits received by EDGE on behalf of the Commercialization Academy that are held to reimburse future expenses of students in the program. EDGE is the administrator for the program expenses.

Expense Allocation

The costs of providing various programs and other activities have been summarized on a functional basis in the Consolidated Statements of Activities. Certain costs have been allocated among the following programs and supporting services as follows:

Business Development - Includes all identifiable expenses as well as allocated expenses necessary for the expansion and development of business within Oneida and Herkimer Counties.

Revolving Loan Program - Includes all expenses related to the administration of existing loans and the creation of new loans to businesses.

Property Development Program - Includes all expenses related to the expansion and maintenance of the properties held for development.

Management and General - Includes all administrative expenses necessary to operate EDGE which are not specifically related to program services or not allocated.

Bond Issuance Costs

EDGE incurred costs associated with a past bond issue. In accordance with ASU No. 2015-03, the costs are classified as a reduction of the loan and are being amortized over the remaining year life of the related debt. During each of the years ended December 31, 2017 and 2016, EDGE recorded non-cash interest expense related to these costs of \$11,738 for each year.

Advertising

EDGE utilizes various forms of advertising to market and promote the general economic development of Oneida and Herkimer Counties. During the years ended December 31, 2017 and 2016, costs expensed to advertising and promotion totaled \$165,744 and \$202,697, respectively.

Income Taxes

EDGE qualifies as a tax-exempt organization under Section 501(c) (3) of the Internal Revenue Code and utilizes December 31 as its year end. EDGE also has been determined to be other than a private foundation as described in Section 509(a) (1) of the Internal Revenue Code.

SDR is treated as a partnership for income tax purposes. Due to the sole member's (EDGE) not-for-profit status, the LLC is considered a disregarded entity and is not subject to income taxes. Consequently, no provision for income taxes is required in the accompanying consolidated financial statements.

394 HRC has an effective income tax rate that is different from the expected statutory rate due to the use of accelerated depreciation methods and nondeductible expenses for income tax purposes. Deferred taxes are recognized for differences between the basis of assets and liabilities for financial statement and income tax purposes. The deferred tax assets and liabilities represent the future tax return consequences of those differences, which will either be deductible or taxable when the assets and liabilities are recovered or settled. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. Income tax expense is the tax payable or refundable for the period plus or minus the change during the period in deferred tax assets and liabilities.

Reclassifications

Certain amounts in the prior-year financial statements have been reclassified for comparative purposes to conform with the presentation in the current-year financial statements.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Future Changes in Accounting Standards

ASU No. 2016-14, Not-for-Profit Entities (Topic 958): Presentation of Financial Statements of Not-for-Profit Entities - effective for years beginning after December 15, 2017. These amendments change presentation and disclosure requirements for not-for-profit entities to provide more relevant information about their resources (and the changes in those resources) to donors, grantors, creditors, and other users. These include qualitative and quantitative requirements in the areas of net asset classes, investment return, expenses, liquidity and availability of resources, and presentation of operating cash flows.

ASU No. 2016-18, Statement of Cash Flows (Topic 230): Restricted Cash - effective for years beginning after December 15, 2018. These amendments require that a statement of cash flows explain the change during the period in the total of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. As a result, amounts generally described as restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The amendments do not provide a definition of restricted cash or restricted cash equivalents.

EDGE will evaluate the impact these pronouncements may have on its financial statements and will implement them as applicable and when material.

NOTE 2 CONCENTRATIONS OF CREDIT RISK

Financial instruments which potentially subject EDGE to concentrations of credit risk consist principally of notes receivable and cash. Concentrations of credit risk with respect to notes receivable arise from the fact that all notes receivable pertain to companies operating in the local community and, therefore, may be adversely affected by changes in the local economy. The loan committee requires collateral on all notes to the fullest extent possible. Cash balances held in bank accounts are insured by the Federal Deposit Insurance Corporation. From time to time, these cash balances exceed the insurance coverage limits; however, management considers this to be a normal business risk.

Also, EDGE's deferred compensation investments are in various types of investment securities as chosen by the participant. Investment securities are exposed to various risks, such as interest rate, market, and credit risk. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and those changes could materially affect the amounts reported in the statements of financial position.

NOTE 3 SALES LEASEBACK TRANSACTIONS

During the year ended December 31, 2017, EDGE established a revolving equipment lease fund as part of a federal grant agreement. Grant funds are used to purchase equipment and EDGE, as buyer-lessor, enters into direct financing capital leases of the equipment with qualifying businesses. The receivable is recorded at the net investment in the capital leases. The lease terms currently range from 7-10 years and the lessee has the option to purchase the equipment on the expiration date for one dollar. The components of the investment in the leases at December 31, 2017 is as follows:

Minimum Lease Payments Receivable	2017 \$ 106,812
Less: Unearned revenue	(19,988)
Net Investment in Capital Lease	\$ 86,824

Unearned revenue is amortized as lease revenue by the interest method using constant, imputed periodic rates over the lease term.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 3 SALES LEASEBACK TRANSACTIONS (Continued)

The following is a schedule, by year, of total minimum lease payments receivable under direct financing leases as of December 31, 2017:

Year Ending December 31:		
2018	\$	12,729
2019		12,729
2020		12,729
2021		12,729
2022		12,729
Thereafter		43,167
Total Minimum lease Payments Receivable	\$	<u>106,812</u>

NOTE 4 DEPOSITS HELD WITH TRUSTEES

Bond proceeds and related investment income for payment of debt service are held on deposit with trustees and are included in deposits on the consolidated statements of financial position. EDGE has entered into a financing agreement to finance construction projects and had deposited funds with a trustee for such projects. The balance will be used to pay future debt service. Deposits with trustees are comprised of cash and cash equivalents invested in interest-bearing accounts.

NOTE 5 PREPAID EXPENSES

Prepaid expenses include a long-term ground lease that EDGE has entered into and prepaid for the use and future development of certain land in connection with the Marcy Nanocenter project at SUNY Polytechnic Institute. The term of the lease is 15 years and expires April 30, 2025. The prepaid amount will be amortized at \$150,000 per year over the life of the lease. EDGE recognized lease expense of \$150,000 during each of the years ended December 31, 2017 and 2016. The remaining balance of the prepaid lease at December 31, 2017 and 2016 is \$1,100,000 and \$1,250,000, respectively.

NOTE 6 INVESTMENTS

Investments at December 31, 2017 and 2016 are comprised of the following:

	2017		2016	
	Cost	Fair Value	Cost	Fair Value
Invested Cash	\$ 1,512	\$ 1,512	\$ 786	\$ 786
Exchange Traded Funds	789	781	2,289	3,017
Corporate Debt Securities	1,999	1,995	5,997	6,004
Mutual Funds	52,126	57,328	27,146	29,943
Accrued Interest on Debt Securities	4	4	9	9
Total Investments Assets	<u>\$ 56,430</u>	<u>\$ 61,620</u>	<u>\$ 36,227</u>	<u>\$ 39,759</u>

The following summarizes net investment income for the year ended December 31, 2017 and 2016:

	2017	2016
Interest and Dividends	\$ 2,290	\$ 689
Unrealized Gains	1,658	3,532
Realized Gains	1,998	0
Service Fees	(585)	(462)
Bank Interest	<u>6,753</u>	<u>7,147</u>
Investment Income, Net	<u>\$ 12,114</u>	<u>\$ 10,906</u>

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 7 FAIR VALUE MEASUREMENTS

The Financial Accounting Standards Board authoritative guidance on fair value measurements establishes a framework for measuring fair value. That framework provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are described as follows:

Level 1: Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that EDGE has the ability to access.

Level 2: Inputs to the valuation methodology include the following:

- Quoted prices for similar assets or liabilities in active markets.
- Quoted prices for identical or similar assets or liabilities in inactive markets.
- Inputs other than quoted prices that are observable for the asset or liability.
- Inputs that are derived principally from, or corroborated by, observable market data by correlation or other means.

If the asset or liability has a specified (contractual) term, the Level 2 input must be observable for substantially the full term of the asset or liability.

Level 3: Inputs to the valuation methodology are unobservable and significant to the fair value measurement.

The asset's or liability's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Valuation techniques used need to maximize the use of observable inputs and minimize the use of unobservable inputs.

The following is a description of the valuation methodologies used for assets measured at fair value. There have been no changes in the methodologies used at December 31, 2017.

Invested Cash: Valued at cost which approximates fair value.

Corporate Bonds: Securities traded in the over-the-counter market and listed securities for which no sale was reported on the last business day of the year are valued at the average of the last reported bid and asked prices or using a market pricing model.

Mutual Funds and Exchange-Traded Funds: Valued at the daily closing price as reported by the fund. These funds held by EDGE are open-ended funds that are registered with the Securities and Exchange Commission. These funds are required to publish their daily net asset value (NAV) and to transact at that price. The mutual funds held are deemed to be actively traded.

All assets have been valued using a market approach, unless otherwise noted.

The preceding methods described may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. Furthermore, although EDGE believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different fair value measurement at the reporting date.

The following table sets forth by level, within the fair value hierarchy, EDGE's investments measured at fair value on a recurring basis as of December 31, 2017 and 2016.

Investments	Total	2017		
		Fair Value Measurements at Reporting Date Using the Above Criteria		
		(Level 1)	(Level 2)	(Level 3)
Invested Cash	\$ 1,512	\$ 1,512	\$ 0	\$ 0
Exchange-Traded Funds	781	781	0	0
Corporate Bonds	1,999	0	1,999	0
Mutual Funds	57,328	57,328	0	0
Totals	\$ 61,620	\$ 59,621	\$ 1,999	\$ 0

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 7 FAIR VALUE MEASUREMENTS (Continued)

Investments	Total	2016		
		Fair Value Measurements at Reporting Date Using the Above Criteria		
		(Level 1)	(Level 2)	(Level 3)
Invested Cash	\$ 786	\$ 786	\$ 0	\$ 0
Exchange-Traded Funds	3,017	3,017	0	0
Corporate Bonds	6,013	0	6,013	0
Mutual Funds	29,943	29,943	0	0
Totals	\$ 39,759	\$ 33,746	\$ 6,013	\$ 0

NOTE 8 NOTES RECEIVABLE

As part of its operations described in Note 1, EDGE loans monies for various purposes to businesses located in Oneida and Herkimer Counties. Loans, which are recorded at cost, are disbursed from the revolving loan program and carry interest rates ranging from 4.0% to 5.0% per annum. EDGE records interest earned as it is received.

Nonperforming loans consist of notes receivable upon which full payment is uncertain. For the years ended December 31, 2017 and 2016, a reserve for uncollectible accounts was established for \$143,108 and \$197,142, respectively. The reserve also provides for the possibility that some of the loans will become nonperforming in subsequent periods.

NOTE 9 PROPERTY AND EQUIPMENT

At December 31, 2017 and 2016, the consolidated property and equipment of EDGE and its subsidiaries consisted of the following:

	2017	2016
Land	\$ 162,609	\$ 162,609
Land Held for Resale	1,377,105	1,380,105
Furniture, Fixtures, and Equipment	938,348	938,348
Buildings and Improvements	17,889,784	17,869,570
Accumulated Depreciation	(6,879,305)	(6,406,524)
Property and Equipment, Net	\$ 13,488,541	\$ 13,944,108

Depreciation expense for the years ended December 31, 2017 and 2016 was \$472,781 and \$471,938, respectively.

NOTE 10 LEASE ACQUISITION COSTS

394 HRC incurred lease acquisition costs in the amount of \$9,424,804 which were part of the corporation's past activities. Lease acquisition costs are being amortized over 20 years. At December 31, 2017 and 2016 these costs are stated net of their accumulated amortization of \$6,459,796 and \$5,984,820, respectively. Amortization expense for both of the years ended December 31, 2017 and 2016 was \$474,976, respectively. Amortization expense for each of the years ending December 31, 2018 through 2022 is expected to be \$474,976.

NOTE 11 DEFERRED REVENUE AND AGENCY FUNDS

The amounts classified as deferred revenue and agency funds at December 31, 2017 and 2016 consist of:

	2017	2016
Deferred Revenue	\$ 37,000	\$ 9,568
Agency Funds	58,778	45,356
Total Deferred Revenue and Agency Funds	\$ 95,778	\$ 54,924

NOTE 12 LINE OF CREDIT

On March 23, 2016 EDGE entered into a \$30.1 million revolving line of credit with KeyBank National Association to assist with cash flow for the Marcy Nanocenter project at SUNY Polytechnic Institute. Interest is variable at LIBOR plus 1.35%. The line is secured by and being repaid with the proceeds and funds disbursed by a capital grant. At December 31, 2017 and 2016, EDGE had \$5,438,835 and \$4,951,149 outstanding on this line of credit which is in effect until February 23, 2020.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 13 LETTERS OF CREDIT

To secure the Civic Facility Revenue Bond, Series 2001, as noted in Note 14, EDGE has an irrevocable letter of credit with NBT Bank, NA to support payments with respect to the bond. The maximum amount available on the letter of credit is equivalent to the principal balance owed on the bond plus 60 days interest on the principal outstanding calculated at 12% per annum. The letter of credit is secured by a mortgage and security agreement in the building, assignment of rents and leases from the sublessee, as well as an unconditional guaranty. The letter of credit expires when the principal balance on the bond as well as amounts outstanding on the letter of credit are paid in full. There are no amounts outstanding on this letter of credit for each of the years ended December 31, 2017 and 2016.

EDGE also has an irrevocable letter of credit with NBT Bank, NA effective April 9, 2015 related to a capital project in an amount not to exceed \$900,746. This letter of credit is unsecured and, if used, the letter of credit bears a variable interest rate equivalent to the Wall Street Journal prime rate. This letter of credit expires on April 1, 2026. There are no amounts outstanding on this letter of credit for each of the years ended December 31, 2017 and 2016.

These letter of credit agreements contain certain covenants as noted in Note 14.

NOTE 14 LONG-TERM DEBT

At December 31, 2017 and 2016, long-term debt consisted of the following:

	2017	2016
<u>EDGE</u>		
Loan payable to NY Business Development Corporation due December 2017 which was being reduced by monthly payments of \$1,365 with a variable interest rate. The interest rate at each of the years ended December 31, 2017 and 2016 was 2.25% per annum. This note was collateralized by a pro-rata second mortgage on the MGS building with MORECO subject to a first mortgage held by NBT Bank. The loan balance was paid off during the year ended December 31, 2017.	\$ 0	\$ 4,739
Civic Facility Revenue Bond, Series 2001, due June 2026. The bond is net of unamortized issuance costs of \$98,799 and \$110,537 at December 31, 2017 and 2016, respectively. The bond is being repaid with annual payments ranging from \$90,000 to \$230,000 with interest at a blended/variable rate. The bond is secured by the MGS building. The variable rate at December 31, 2017 and 2016 was 2.32% and 0.82% respectively.	1,576,201	1,704,463
Loan payable to Mohawk Valley Rehabilitation Corporation (MORECO) due April 2017. It was being repaid by monthly payments of \$527 with interest at 6.0% per annum. This note was collateralized by a pro-rata second mortgage on the MGS building with MORECO subject to a first mortgage held by NBT Bank. The loan balance was paid off during the year ended December 31, 2017.	0	2,103
Loan payable to MORECO due April 2020 to assist in financing the expansion and improvement of a building at 725 Daedalian Drive, Rome, NY. The loan is secured by an assignment of leases and rents and mortgage on the building and property. It is currently being repaid by monthly payments of \$2,147, including interest at 3.25% per annum, which will be made until maturity.	57,805	81,269

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 14 LONG-TERM DEBT (Continued)

	<u>2017</u>	<u>2016</u>
<u>394 HRC</u>		
Term loan payable to NBT Bank to assist with financing costs related to renovations and improvements to Hangar 101 at 394 Hangar Road. The loan is secured by a pro rata (with New York Business Development Corporation) first lien real estate mortgage on Hangar 101 at 394 Hangar Road and 65 acre parcel of vacant land owned by GLDC. The loan is currently being repaid in monthly installments of \$4,764 through November 2019. The interest rate is fixed at 3.95% per annum.	100,185	152,203
Term loan payable to MVEDD to assist with financing for costs related to EAC's relocation to Griffiss from Miami. The loan is secured by a third position leasehold mortgage on Hangar 101 at 394 Hangar Road and 65-acre parcel of vacant land owned by GLDC, assignment of lease, and an interest in all furniture and fixtures there. The loan is currently being repaid in monthly installments of \$1,110 over a 15-year term through August 2021. The interest rate is fixed at 4.00% per annum for the term of the loan.	44,380	55,670
Term loan payable to MVEDD to assist with financing leasehold improvements to Hangar 101. The loan is being paid in monthly principal and interest installments of \$2,762 through October 1, 2019, at which time the remaining principal will be due. The interest rate is fixed at 4.00% for the term of the loan.	<u>58,506</u>	<u>88,658</u>
Total	1,837,077	2,089,105
Less: Current Maturities	<u>266,517</u>	<u>263,773</u>
Total Long-Term Debt	<u>\$ 1,570,560</u>	<u>\$ 1,825,332</u>

Maturities of long-term debt for each of the next five years and thereafter are as follows:

<u>Year</u>	<u>EDGE Amount</u>	<u>394 HRC Amount</u>	<u>Total Amount</u>
2018	169,239	97,278	266,517
2019	180,038	85,398	265,436
2020	173,528	12,730	186,258
2021	175,000	7,665	182,665
2022	185,000	0	185,000
Thereafter	<u>850,000</u>	<u>0</u>	<u>850,000</u>
Total Minimum Principal Balance	1,732,805	203,071	1,935,876
Less: Unamortized Debt Issuance Costs	<u>98,799</u>	<u>0</u>	<u>98,799</u>
Carrying Value of Long Term Debt	<u>\$ 1,634,006</u>	<u>\$ 203,071</u>	<u>\$ 1,837,077</u>

Interest expense on all debt for the years ended December 31, 2017 and 2016 is \$156,226 and \$235,089, respectively.

EDGE's long-term debt and letter of credit agreements contain certain covenants, primarily a debt service ratio covenant. At December 31, 2017 and 2016, EDGE was not in compliance with the covenants with one financial institution, however, the financial institution has waived those covenants for the applicable years.

394 HRC also has a similar covenant with one financial institution. For the current year, they were not in compliance, however, they have obtained a waiver of the covenant. They were in compliance with the covenant for the year ended December 31, 2016.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 14 LONG-TERM DEBT (Continued)

Intercompany

EDGE loaned \$1,178,952 to 394 HRC on December 31, 2007 to pay for the cost of renovations and improvements to Hangar 101 and EAC relocation costs. The loan is unsecured and requires monthly payments of \$12,350 to be paid through the maturity date of January 1, 2018. The interest rate is fixed at 4.73% until maturity. At December 31, 2017 and 2016, the balance of the loan was \$12,301 and \$156,201, respectively.

All intercompany loans have been eliminated through consolidation.

NOTE 15 PERMANENTLY RESTRICTED NET ASSETS

Oneida County contributed \$60,350 to EDGE to be used for the initial funding of a building project. Additional provisions of the contribution directed that the amount become a permanently restricted portion of net assets for the purpose of providing initial funding for additional building projects.

NOTE 16 BUILDING LEASES

EDGE

EDGE is leasing approximately 70,270 square feet of a building located at 122 Otis Street, Griffiss Business and Technology Park, Rome, NY to MGS Manufacturing Inc. for \$6.10 per square foot annually. The lease agreement, which is non-cancelable, is for a term of 20 years ending March 31, 2022 and contains two options to renew in 5-year increments. The lease agreement also contains a provision for EDGE to receive payments for common area maintenance, service fees, and utility payments.

Future minimum rentals for the lease under terms in effect at December 31, 2017 and for the next five years are as follows:

<u>Year</u>	<u>Amount</u>
2018	\$ 404,047
2019	\$ 404,047
2020	\$ 404,047
2021	\$ 404,047
2022	\$ 417,222

394 HRC

394 HRC, as sub-landlord, subleases 379,684 square feet of space in Hangar 101 to Premier. The lease is non-cancelable and the original term is for 20 years. It includes two options to renew for 10 years each, followed by an additional option to renew for 2 years and 4 months.

On March 1, 2014, 394 HRC entered into amendment #1 of the sublease agreement, which increased the minimum lease payments for a five-year portion of the original lease term through February 28, 2018. The amendment allows the sub lessee to reimburse costs incurred for certain improvements made by the sub lessor to the leased property.

On October 6, 2015, 394 HRC entered into amendment #2 of the existing sublease agreement, to amend certain terms and provisions.

On February 6, 2016, 394 HRC entered into amendment #3 of the existing sublease agreement, to further amend certain terms and provisions.

The following is a schedule of future minimum rentals for lease income under terms of the amended sublease agreement in effect after amendment #3 noted above:

<u>Year</u>	<u>Amount</u>
2018	\$ 1,020,000
2019	\$ 1,020,000
2020	\$ 1,090,000
2021	\$ 1,104,000
2022	\$ 1,104,000

394 HRC is concurrently leasing Hangar 101 from GLDC for \$1.00 annually for 20 years.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 17 INCOME TAXES

Federal and state provision for income taxes for the years ended December 31, 2017 and 2016, for 394 HRC, consisted of the following:

	<u>2017</u>	<u>2016</u>
Current Tax Expense		
New York State Capital Base Tax	\$ 12,234	\$ 16,028
Total Current Tax Expense	<u>12,234</u>	<u>16,028</u>
Deferred Tax (Benefit)		
Federal	(2,655)	(1,659)
New York State	<u>(328)</u>	<u>(385)</u>
Total Deferred Tax (Benefit)	<u>(2,983)</u>	<u>(2,044)</u>
Total Provision for Taxes	<u>\$ 9,251</u>	<u>\$ 13,984</u>

Changes in the federal tax law enacted in 2017 have lowered the tax rates beginning in 2018. The deferred tax asset and liability at December 31, 2017, listed below, have been reduced to reflect the newly enacted rates.

The net deferred tax liability as of December 31, 2017 and 2016 is comprised of the following:

	<u>2017</u>	<u>2016</u>
Deferred Tax Asset		
Net Operating Loss Carryforward	\$ 1,564,603	\$ 1,865,155
Valuation Allowance	<u>(1,564,603)</u>	<u>(1,885,155)</u>
Deferred Tax Asset	<u>0</u>	<u>0</u>
Deferred Tax Liability		
Depreciation – Excess of Tax Over Book	<u>(1,726)</u>	<u>(4,709)</u>
Deferred Tax (Liability), Net	<u>\$ (1,726)</u>	<u>\$ (4,709)</u>

The valuation allowance has experienced a decrease of \$300,552 for the year ended December 31, 2017 and an increase of \$195,386 for the year ended December 31, 2016. Management has determined that the operating loss carryforward amounts will not be utilized prior to expiration.

As of December 31, 2017, 394 HRC had net operating loss carryovers that may offset future taxable income. Due to recent New York State corporate tax law changes modifying the deduction and carryover rules, the state has developed a net operating loss conversion subtraction (NOLCS) to replace net operating loss deductions for losses which originated prior to January 1, 2015, subject to limitations. These prior losses were pooled in 2015 and may be carried forward for 20 years, expiring in 2035.

If not utilized, all carryovers will now expire as follows:

	Federal Net Operating Loss	New York State Net Operating Loss
2025	\$ 418,050	\$ 0
2031	682,597	0
2032	520,539	0
2033	600,682	0
2035 (NOLCS Pool)	0	7,275,389
2035	661,152	641,279
2036	460,197	444,169
2037	<u>712,857</u>	<u>700,623</u>
Totals	<u>\$ 4,056,074</u>	<u>\$ 9,061,460</u>

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 18 PENSION PLANS

Defined Contribution Plan

EDGE and 394 HRC contribute to a defined contribution pension plan for their employees. Employees are eligible for immediate membership in the plan. Contributions paid to the plan are equal to 10% of participants' compensation. The amount of contributions paid to the plan on behalf of the employees of EDGE and 394 HRC for 2017 and 2016 amounted to \$110,051 and \$98,815, respectively.

Deferred Compensation Plan

In 2015, EDGE created a single participant 457(b) plan for a key employee. EDGE contributed \$0 and \$18,000 to the plan for the years ended December 31, 2017 and 2016, respectively. The assets of the plan are the legal assets of EDGE until they are distributed to the participant, and therefore the plan assets and corresponding liability are reported in the consolidated statement of financial position at fair value. Investment income and benefit obligations are included in the consolidated statement of activities. The fair market value of the deferred compensation investments and the related deferred compensation obligations is \$61,620 and \$39,759 at December 31, 2017 and 2016.

NOTE 19 CLASSIFICATION OF EXPENSES

The statement of activities presents expenses by functional classification with depreciation presented separately. The classification of expenses by function with depreciation included as a program service is as follows:

	<u>2017</u>	<u>2016</u>
Program Services		
Property Development	\$ 31,786,639	\$ 34,397,820
Business Development	1,033,861	1,575,756
Revolving Loan Fund	660,209	149,824
Supporting Services		
Management and General	<u>923,916</u>	<u>1,076,760</u>
Total Expenses	<u>\$ 34,404,625</u>	<u>\$ 37,200,160</u>

NOTE 20 CONTINGENCIES

Amounts received or receivable from grantor agencies are subject to audit and adjustment principally by the federal and state governments. Any disallowed claims, including amounts already collected, may constitute a liability of the applicable program. The amounts of expenditures which may be disallowed by the grantor cannot be determined at this time although EDGE expects such amounts, if any, to be immaterial.

EDGE has entered into various commercial agreements including loan agreements, real property sales agreements, leases (as either a tenant or a landlord), and other agreements pursuant to which it has agreed to indemnify the other party or parties. For the most part, the indemnities granted by EDGE cover premises liability-related matters, including environmental matters, and are considered by EDGE to be either commercially required or commercially reasonable under the circumstances of the transaction in question. With respect to most, but not all, of these indemnities, EDGE has arranged for liability insurance, including environmental liability insurance, in an amount it deems adequate (less applicable deductibles) to cover its potential exposure under such indemnities.

NOTE 21 SUBSEQUENT EVENTS

Management has evaluated subsequent events for the period January 1, 2018 through April 20, 2018, the date on which the consolidated financial statements were available to be issued.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES
 CONSOLIDATING SCHEDULE OF FINANCIAL POSITION

December 31, 2017

	EDGE	5900 Success Drive Realty, L.L.C.	394 Hangar Road Corporation	Combined Balance	Consolidation Elimination	Final Balance
Assets						
Current Assets	\$	\$	\$	\$	\$	\$
Cash and Cash Equivalents	3,979,237	16,415	165,421	4,161,073	0	4,161,073
Restricted Cash	14,144,508	0	0	14,144,508	0	14,144,508
Grants Receivable	9,542,879	0	0	9,542,879	0	9,542,879
Capital Leases Receivable, Net - Current	8,440	0	0	8,440	0	8,440
Other Receivables	17,503	0	3,796	21,299	0	21,299
Prepaid Expenses - Current	201,965	500	57,551	260,016	0	260,016
Notes Receivable, Net - Current	120,318	0	0	120,318	(12,301)	108,017
Total Current Assets	28,014,850	16,915	226,768	28,258,533	(12,301)	28,246,232
Investments and Other Long-Term Assets						
Investment in Subsidiaries	15,794,203	0	0	15,794,203	(15,794,203)	0
Deferred Compensation Investments	61,620	0	0	61,620	0	61,620
Deposits	394,327	0	0	394,327	0	394,327
Capital Leases Receivable, Net	78,384	0	0	78,384	0	78,384
Prepaid Expenses	1,015,740	0	28,681	1,044,421	0	1,044,421
Notes Receivable, Net	596,287	0	0	596,287	0	596,287
Total Investments and Other Long-Term Assets	17,940,561	0	28,681	17,969,242	(15,794,203)	2,175,039
Capital Related Assets						
Lease Acquisition Costs, Net	0	0	2,965,008	2,965,008	0	2,965,008
Property and Equipment, Net	4,567,280	37,100	8,884,161	13,488,541	0	13,488,541
Total Capital Related Assets	4,567,280	37,100	11,849,169	16,453,549	0	16,453,549
Total Assets	\$ 50,522,691	\$ 54,015	\$ 12,104,618	\$ 62,681,324	\$ (15,806,504)	\$ 46,874,820
Liabilities and Net Assets						
Current Liabilities	\$	\$	\$	\$	\$	\$
Accounts Payable and Accrued Liabilities	1,039,487	0	11,214	1,050,701	0	1,050,701
Refundable Advances	15,840,718	0	0	15,840,718	0	15,840,718
Deferred Revenue and Agency Funds	95,778	0	0	95,778	0	95,778
Lines of Credit	5,438,835	0	0	5,438,835	0	5,438,835
Current Maturities of Long-Term Debt	169,239	0	109,579	278,818	(12,301)	266,517
Total Current Liabilities	22,584,057	0	120,793	22,704,850	(12,301)	22,692,549
Long-Term Liabilities						
Deferred Tax Liability	0	0	1,726	1,726	0	1,726
Compensated Absences	82,609	0	0	82,609	0	82,609
Deferred Compensation Obligation	61,620	0	0	61,620	0	61,620
Long-Term Debt	1,464,767	0	105,793	1,570,560	0	1,570,560
Total Long-Term Liabilities	1,608,996	0	107,519	1,716,515	0	1,716,515
Net Assets						
Members' Equity and Retained Earnings (Deficit)	0	54,015	11,876,306	11,930,321	(15,794,203)	(3,863,882)
Unrestricted	26,269,288	0	0	26,269,288	0	26,269,288
Permanently Restricted	60,350	0	0	60,350	0	60,350
Total Net Assets (Deficit)	26,329,638	54,015	11,876,306	38,259,959	(15,794,203)	22,465,756
Total Liabilities and Net Assets (Deficit)	\$ 50,522,691	\$ 54,015	\$ 12,104,618	\$ 62,681,324	\$ (15,806,504)	\$ 46,874,820

See Independent Auditor's Report.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

CONSOLIDATING SCHEDULE OF ACTIVITIES

For the Year Ended December 31, 2017

	EDGE	5900 Success Drive Realty, LLC	394 Hangar Road Corporation	Combined Balance	Consolidation Elimination	Final Balance
Support and Revenue						
Federal and State Government Grants	\$ 28,832,753	\$ 0	\$ 0	\$ 28,832,753	\$ 0	\$ 28,832,753
Service Contracts	1,524,060	0	0	1,524,060	(62,500)	1,461,560
Lease Income	429,786	0	1,004,216	1,434,002	0	1,434,002
Local Business Grants	254,173	0	0	254,173	0	254,173
Local Business Contributions	353,473	0	0	353,473	0	353,473
Refunds, Reimbursements, and Deposits	5,022	0	175,951	180,973	0	180,973
Loan Interest Income	41,370	0	0	41,370	(4,295)	37,075
Investment Income, Net	11,794	0	320	12,114	0	12,114
Other Income	2,583	0	0	2,583	0	2,583
Total Support and Revenue	31,455,014	0	1,180,487	32,635,501	(66,795)	32,568,706
Expenses Before Depreciation and Amortization Expense						
Program Services						
Property Development Program	29,817,544	4,662	1,083,471	30,905,677	(66,795)	30,838,882
Business Development	1,033,861	0	0	1,033,861	0	1,033,861
Revolving Loan Program	660,209	0	0	660,209	0	660,209
Supporting Services						
Management and General	923,916	0	0	923,916	0	923,916
Total Expenses Before Depreciation and Amortization Expense	32,435,530	4,662	1,083,471	33,523,663	(66,795)	33,456,868
Increase (Decrease) in Net Assets before Depreciation and Amortization Expense	(980,516)	(4,662)	97,016	(888,162)	0	(888,162)
Depreciation and Amortization Expense	135,822	0	811,935	947,757	0	947,757
(Decrease) in Net Assets	(1,116,338)	(4,662)	(714,919)	(1,835,919)	0	(1,835,919)
Net Assets, Beginning of Year	27,445,976	58,677	12,591,225	40,095,878	(15,794,203)	24,301,675
Net Assets, End of Year	\$ 26,329,638	\$ 54,015	\$ 11,876,306	\$ 38,259,959	\$ (15,794,203)	\$ 22,465,756

See Independent Auditor's Report.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

CONSOLIDATING SCHEDULE OF FINANCIAL POSITION

December 31, 2016

	EDGE	5900 Success Drive Realty, LLC	394 Hangar Road Corporation	Combined Balance	Consolidation Elimination	Final Balance
Assets						
Current Assets						
Cash and Cash Equivalents	\$ 3,330,048	\$ 20,776	\$ 323,789	\$ 3,674,613	\$ 0	\$ 3,674,613
Restricted Cash	5,742,315	0	0	5,742,315	0	5,742,315
Grants Receivable	10,134,293	0	0	10,134,293	0	10,134,293
Other Receivables	251,825	0	16,667	268,492	0	268,492
Prepaid Expenses - Current	203,539	801	57,716	262,056	0	262,056
Notes Receivable, Net - Current	400,683	0	0	400,683	(143,900)	256,783
Total Current Assets	20,662,703	21,577	398,172	20,482,452	(143,900)	20,338,552
Investments and Other Long-Term Assets						
Investment in Subsidiaries	15,794,203	0	0	15,794,203	(15,794,203)	0
Deferred Compensation Investments	39,759	0	0	39,759	0	39,759
Deposits	390,819	0	0	390,819	0	390,819
Prepaid Expenses	1,291,745	0	43,022	1,334,767	0	1,334,767
Notes Receivable, Net	1,157,712	0	0	1,157,712	(12,301)	1,145,411
Total Investments and Other Long-Term Assets	18,674,238	0	43,022	18,717,260	(15,806,504)	2,910,756
Capital Related Assets						
Lease Acquisition Costs, Net	0	0	3,439,984	3,439,984	0	3,439,984
Property and Equipment, Net	4,706,102	37,100	9,200,906	13,944,108	0	13,944,108
Total Capital Related Assets	4,706,102	37,100	12,640,890	17,384,092	0	17,384,092
Total Assets	\$ 43,443,043	\$ 58,677	\$ 13,082,084	\$ 56,583,804	\$ (15,930,404)	\$ 40,653,400
Liabilities and Net Assets						
Current Liabilities						
Accounts Payable and Accrued Liabilities	\$ 2,303,746	\$ 0	\$ 30,848	\$ 2,334,594	\$ 0	\$ 2,334,594
Refundable Advances	6,765,952	0	0	6,765,952	0	6,765,952
Deferred Revenue and Agency Funds	54,924	0	0	54,924	0	54,924
Line of Credit	4,951,149	0	0	4,951,149	0	4,951,149
Current Maturities of Long-Term Debt	170,306	0	337,367	407,673	(143,900)	263,773
Total Current Liabilities	14,246,077	0	268,215	14,514,292	(143,900)	14,370,392
Long-Term Liabilities						
Deferred Tax Liability	0	0	4,709	4,709	0	4,709
Compensated Absences	88,963	0	2,570	91,533	0	91,533
Deferred Compensation Obligation	39,759	0	0	39,759	0	39,759
Long-Term Debt	1,622,268	0	215,365	1,837,633	(12,301)	1,825,332
Total Long-Term Liabilities	1,750,990	0	222,644	1,973,634	(12,301)	1,961,333
Net Assets						
Members' Equity and Retained Earnings (Deficit)	0	58,677	12,591,225	12,649,902	(15,794,203)	(3,144,301)
Unrestricted	27,385,626	0	0	27,385,626	0	27,385,626
Permanently Restricted	60,350	0	0	60,350	0	60,350
Total Net Assets	27,445,976	58,677	12,591,225	40,095,878	(15,794,203)	24,301,675
Total Liabilities and Net Assets	\$ 43,443,043	\$ 58,677	\$ 13,082,084	\$ 56,583,804	\$ (15,930,404)	\$ 40,653,400

See Independent Auditor's Report.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

CONSOLIDATING SCHEDULE OF ACTIVITIES

For the Year Ended December 31, 2016

	EDGE	5900 Success Drive Realty, LLC	394 Hangar Road Corporation	Combined Balance	Consolidation Elimination	Final Balance
Support and Revenue						
Federal and State Government Grants	\$ 31,971,650	\$ 0	0	\$ 31,971,650	\$ 0	\$ 31,971,650
Service Contracts	1,749,124	0	0	1,749,124	(62,500)	1,686,624
Lease Income	407,640	0	867,000	1,274,640	0	1,274,640
Local Business Grants	687,000	0	0	687,000	0	687,000
Local Business Contributions	412,345	0	0	412,345	0	412,345
Loan Interest Income	63,152	0	0	63,152	(10,931)	52,221
Investment Income	10,859	0	47	10,906	0	10,906
Refunds, Reimbursements, and Deposits	5,232	0	0	5,232	0	5,232
Other Income	7,084	0	0	7,084	0	7,084
Total Support and Revenue	<u>35,214,086</u>	<u>0</u>	<u>867,047</u>	<u>36,181,133</u>	<u>(73,431)</u>	<u>36,107,702</u>
Expenses Before Depreciation and Amortization Expense						
Program Services						
Property Development Program	33,021,675	4,291	518,875	33,544,841	(73,431)	33,471,410
Business Development	1,575,756	0	0	1,575,756	0	1,575,756
Revolving Loan Program	149,824	0	0	149,824	0	149,824
Supporting Services						
Management and General	1,056,256	0	0	1,056,256	0	1,056,256
Total Expenses Before Depreciation and Amortization Expense	<u>35,803,511</u>	<u>4,291</u>	<u>518,875</u>	<u>36,326,677</u>	<u>(73,431)</u>	<u>36,253,246</u>
Increase (Decrease) in Net Assets before Depreciation and Amortization Expense	(489,425)	(4,291)	348,172	(145,544)	0	(145,544)
Depreciation and Amortization Expense	136,096	0	810,818	946,914	0	946,914
(Decrease) in Net Assets	<u>(625,521)</u>	<u>(4,291)</u>	<u>(462,646)</u>	<u>(1,092,458)</u>	<u>0</u>	<u>(1,092,458)</u>
Net Assets, Beginning of Year	28,071,497	62,968	13,053,871	41,188,336	(15,794,203)	25,394,133
Net Assets, End of Year	<u>\$ 27,445,976</u>	<u>\$ 58,677</u>	<u>\$ 12,591,225</u>	<u>\$ 40,095,878</u>	<u>\$ (15,794,203)</u>	<u>\$ 24,301,675</u>

See Independent Auditor's Report.

D'Arcangelo & Co., LLP
Certified Public Accountants & Consultants

120 Lomond Court, Utica, N.Y. 13502-5950
315-735-5216 Fax: 315-735-5210

Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Consolidated Financial Statements Performed in Accordance with Government Auditing Standards

Board of Directors

Economic Development Growth Enterprises Corporation

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the consolidated financial statements of Economic Development Growth Enterprises Corporation and its subsidiaries, which comprise the consolidated statement of financial position as of December 31, 2017, and the related consolidated statements of activities and cash flows for the year then ended, and the related notes to the consolidated financial statements, and have issued our report thereon dated April 20, 2018. The subsidiaries, 394 Hangar Road Corporation and 5900 Success Drive Realty, LLC, were not audited in accordance with *Government Auditing Standards* and accordingly this report does not include reporting on internal control over financial reporting or instances of reportable noncompliance associated with those subsidiaries.

Internal Control Over Financial Reporting

In planning and performing our audit of the consolidated financial statements, we considered Economic Development Growth Enterprises Corporation's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the consolidated financial statements, but not for the purpose of expressing an opinion on the effectiveness of Economic Development Growth Enterprises Corporation's internal control. Accordingly, we do not express an opinion on the effectiveness of Economic Development Growth Enterprises Corporation's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the organization's consolidated financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether Economic Development Growth Enterprises Corporation and its Subsidiaries' consolidated financial statements are free from material misstatement, we performed tests of Economic Development Growth Enterprises Corporation's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the organization's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the organization's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

D'Arcangelo + Co., LLP

April 20, 2018

Utica, New York

D'Arcangelo & Co., LLP
Certified Public Accountants & Consultants

120 Lomond Court, Utica, N.Y. 13502-5950
315-735-5216 Fax: 315-735-5210

Independent Auditor's Report on Compliance for Each Major Program and on Internal Control Over Compliance Required by the Uniform Guidance

Board of Directors

Economic Development Growth Enterprises Corporation

Report on Compliance for Each Major Federal Program

We have audited Economic Development Growth Enterprises Corporation's compliance with the types of compliance requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on each of Economic Development Growth Enterprises Corporation's major federal programs for the year ended December 31, 2017. Economic Development Growth Enterprises Corporation's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

Management's Responsibility

Management is responsible for compliance with federal statutes, regulations, and the terms of its federal awards applicable to its federal programs.

Auditor's Responsibility

Our responsibility is to express an opinion on compliance for each of Economic Development Growth Enterprises Corporation's major federal programs based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. *Code of Federal Regulations* part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about Economic Development Growth Enterprises Corporation's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of Economic Development Growth Enterprises Corporation's compliance.

Opinion on Each Major Federal Program

In our opinion, Economic Development Growth Enterprises Corporation complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended December 31, 2017.

Report on Internal Control Over Compliance

Management of Economic Development Growth Enterprises Corporation are responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered Economic Development Growth Enterprises Corporation's internal control over compliance with the types of requirements that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of Economic Development Growth Enterprises Corporation's internal control over compliance.

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

D'Arcangelo + Co., LLP

April 20, 2018

Utica, New York

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

For the Year Ended December 31, 2017

<u>Federal Grantor/Pass-Through Grantor/Program Title</u>	<u>Federal CFDA Number</u>	<u>Federal Expenses</u>	<u>Expenditures To Subrecipients</u>
<u>U.S. Department of Housing and Urban Development</u>			
<u>(Pass-through Oneida County)</u>			
Community Development Block Grants – HUD			
Administered Small Cities Program			
Revolving Loan Program, Grant ID No. B-99-DH-360265	14.219	\$ 40,805	\$ 40,805
Community Development Block Grants – State’s Program			
Revolving Loan Program			
Program Project No. 846ME69-00	14.228	616,737	134,000
Micro Grant Program			
Program Project No. 846CRF-ED815-14	14.228	41,200	40,250
Program Project No. 846-ED859-16	14.228	112,000	104,000
Total Community Development Block Grants – State’s Program		<u>769,937</u>	<u>278,250</u>
Total U.S. Department of Housing and Urban Development		<u>810,742</u>	<u>319,055</u>
<u>U.S. Department of Agriculture</u>			
<u>(Direct)</u>			
Rural Business Development Grant			
Equipment Purchase-Leaseback Projects	10.351	113,000	109,500
Agribusiness Cluster Development Strategy Project	10.351	30,400	0
Total Rural Business Development Grant		<u>143,400</u>	<u>109,500</u>
Total US Department of Agriculture		<u>143,400</u>	<u>109,500</u>
<u>Total Federal Awards</u>		<u>\$ 954,142</u>	<u>\$ 428,555</u>

See Independent Auditor’s Report and Notes to Schedule of Expenditures of Federal Awards.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

For the Year Ended December 31, 2017

NOTE 1 SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The accompanying schedule of expenditures of federal awards (the Schedule) includes the federal award activity of Economic Development Growth Enterprises Corporation (EDGE), an entity as defined in Note 1 to EDGE's consolidated financial statements, under programs of the federal government for the year ended December 31, 2017. The information in this Schedule is presented in accordance with the requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Because the Schedule presents only a selected portion of the operations of EDGE, it is not intended to and does not present the financial position, changes in net assets, or cash flows of EDGE.

Basis of Accounting

Expenditures reported on the schedule are reported on the accrual basis of accounting. Such expenditures are recognized following the cost principles contained in the Uniform Guidance or OMB Circular A-122, *Cost Principles for Non-Profit Organizations* (since some of the original awards were granted prior to the Uniform Guidance), wherein certain types of expenditures are not allowable or are limited as to reimbursement. The amounts reported as federal expenditures were obtained from the financial records detail, which is the source of the consolidated financial statements.

Loan Funds

EDGE has two CDBG-Small Cities revolving loan funds, funded by the U.S. Department of Housing and Urban Development. The reporting on the accompanying Schedule of Expenditures of Federal Awards includes amounts for the balances of loans outstanding, grants from the loan fund, and cash balances at December 31, 2017, as required by the Uniform Guidance, since many of the laws contain continuing compliance requirements.

Expenditures for the loan funds on the schedule of expenditures of federal awards are calculated as follows:

	HUD	CDBG
	<u>Small Cities</u>	<u>State Program</u>
Cash Balance	\$ 0	\$ 486,346
Outstanding Loans	0	46,391
Grants	<u>40,805</u>	<u>84,000</u>
	<u>\$ 40,805</u>	<u>\$ 616,737</u>

De Minimis Indirect Cost Rate

EDGE has not elected to use the 10 percent de minimis indirect cost rate as allowed under the Uniform Guidance.

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

**SCHEDULE OF FINDINGS AND QUESTIONED
COSTS - FEDERAL COMPLIANCE REQUIREMENTS**

For the Year Ended December 31, 2017

A. Summary of Audit Results

1. The auditor's report expresses an unmodified opinion on the consolidated financial statements of Economic Development Growth Enterprises Corporation and its Subsidiaries (EDGE).
2. No significant deficiencies or material weaknesses were noted relating to the audit of the consolidated financial statements which are reported in the Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Consolidated Financial Statements Performed in Accordance with Government Auditing Standards.
3. No instances of noncompliance material to the consolidated financial statements of EDGE were disclosed during the audit.
4. No significant deficiencies or material weaknesses were noted relating to the audit of the major federal award programs which are reported in the Independent Auditor's Report on Compliance for Each Major Federal Program and on Internal Control Over Compliance Required by the Uniform Guidance.
5. The auditor's report on compliance for the major federal award programs for EDGE expresses an unmodified opinion on all major federal programs.
6. There are no audit findings required to be reported relative to the major federal award programs for EDGE.
7. The programs tested as a major program included:

<u>Program</u>	<u>CFDA No.</u>
Community Development Block Grant – State's Administered Small Cities Program	14.228

8. The threshold for distinguishing Type A and B programs was \$750,000.
9. EDGE was determined to be a low-risk auditee.

B. Financial Statement Findings

None

C. Federal Award Findings and Questioned Costs

None

ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION AND ITS SUBSIDIARIES

**STATUS OF PRIOR YEAR FINDINGS - FEDERAL
COMPLIANCE REQUIREMENTS**

For the Year Ended December 31, 2017

None.

PETITION BY ONEIDA COUNTY, N. Y., BOARD OF LEGISLATORS

for

FN 20 18-024

MEMORIALIZING PETITION

F.N. 2018-

SPONSOR(S): Messrs: Paparella, Fiorini, Mandryck, Idzi, Welsh, Flisnik, Waterman, Leach, Koenig

READ & FILED

A MEMORIALIZING PETITION URGING ALL UNITED STATE SENATORS TO SUPPORT H.R. 5130 "ENSURING VETERANS ACCESS TO MILITARY FITNESS FACILITIES ACT OF 2018" ALLOWING RETIRED MILITARY VETERANS AND THEIR FAMILIES MEMBERSHIP TO THE COLOSSEUM FITNESS CENTER, LOCATED AT GRIFFISS PARK, ROME, NY

WHEREAS, the Colosseum Fitness Facility at Griffiss Park is owned by three major Defense Department employers (EADS, Rome Lab and DFAS); and

WHEREAS, Colosseum Fitness Facility is located in a former Air Force warehouse and opened in 2007 as an 80,000 square foot facility; and

WHEREAS, since 2013, veterans and retired military personnel have been denied access to the Colosseum Fitness Facility due to a technicality barring them. H.R. 5130("ENSURING VETERANS ACCESS TO MILITARY FITNESS FACILITIES ACT OF 2018") fixes that technicality and has already passed in the House of Representatives. Approximately 255 local retired military veterans and their families are being affected by this decision; and

WHEREAS, proper fitness can assist our retired military veterans with improving their health, and in many cases rehabilitate previous health issues due to combat; and

WHEREAS, the Oneida County Board of Legislators hold retired military veterans and their families in high regard for their service to our Country and feel that retired military veterans and their families should be allowed membership at the Colosseum Fitness Facility; and

NOW THEREFORE BE IT HEREBY RESOLVED, that membership to the Colosseum Fitness Facility is a quality of life issue that should not be denied our retired military veterans and their families; and

BE IT FURTHER RESOLVED, that our federal, state, county and city representatives should all stand together in support of membership privileges at Colosseum Fitness Facility be restored to our retired military veterans and their families; and

BE IT FURTHER RESOLVED, that a copy of this Petition shall be forwarded by mail to the following: New York State Governor Andrew Cuomo, Secretary of Defense James N. Mattis, Secretary of the Air Force Heather A. Wilson, Congresswoman Claudia Tenney, United States Senator Charles E. Schumer, United States Senator Kirsten E. Gillibrand, New York State Senator Joseph A. Griffo, New York State Senator David Valesky, New York State Assembly Representative Anthony Brindisi, New York State Assembly Representative Brian Miller, New York State Assembly Representative Ken Blankenbush, York State Assembly Representative William Magee, New York State Assembly Marc Butler, County Executive Anthony Picente, City of Rome Mayor Jacqueline Izzo and all others deemed necessary and proper.

Legislators Supporting Petition

Legislators Opposing Petition

~~Edna P. Walsh~~
~~Bill Walsh~~

Edna P. Walsh

Bill Walsh

~~Bill Walsh~~
~~Bill Walsh~~

~~Bill Walsh~~

Bill Walsh

Bill Walsh

William Goodman

Case And Barentino

Philip M. Sacco

Chad Davis

Joseph J. Jurek

John Walsh

Mom Leahy

Raymond T. Trites

William Goodman

John Walsh

The enclosed petition represents the opinion of those members of the Oneida County Board of Legislators signing the same regarding the contents or subject matter of the petition. Under the Rules of the Board, a Legislator may sign said petition or may, in the alternative, elect not to sign the petition. There are 23 members of the Oneida County Board of Legislators.

Dated: June 13, 2018



ONEIDA COUNTY BOARD OF LEGISLATORS

Brian P. Mandryck ♦ 9245 Sly Hill Road ♦ Ava, New York 13303 ♦ (315) 336-0469

June 29, 2018

The Hon. Gerald J. Fiorini
Chairman, Board of Legislators
Oneida County
800 Park Ave.
Utica, N.Y. 13501

Dear Mr. Fiorini:

FN 20

**ECONOMIC DEVELOPMENT
& TOURISM**

WAYS & MEANS

Please find the attached Local Law, to be known as the "Energize NY Benefit Financing Program Law of Oneida County," which will enable Oneida County to join with the state's Energy Improvement Corporation to provide special financing options for residential and commercial property owners for the installation of energy-efficient and renewable energy technology.

The program allows buildings to access long-term, low-interest capital for renewable energy and/or energy efficiency improvements. It is a tool being made available to property owners in the county and will allow them to upgrade their properties while becoming more energy efficient.

The Local Law was drafted and reviewed by the Law Department, as well as considered by the Planning Department.

I respectfully request that this proposed Local Law be submitted to the full Board of Legislators for its approval. Thank you for your kind attention to this matter.

Respectfully submitted,

Brian P. Mandryck

Brian P. Mandryck
Oneida County Legislator
17th District



Oneida County Department of Planning

Boehlert Center at Union Station, 321 Main Street, Utica, NY 13501

June 28, 2018

Anthony J. Picente, Jr.
County Executive
Oneida County Office Building
800 Park Avenue
Utica, New York 13501

Re: Energize NY Finance

Dear County Executive Picente:

Energize NY Finance, also known as Property Assessed Clean Energy (PACE) Financing, is a program adopted by an eligible local government that allows property owners to pay back the cost of clean energy upgrades to commercial or non-profit property through a special charge on their property tax bill. Energize NY Finance enables eligible buildings to secure funds to tackle significant energy upgrades and renewable energy projects. This financing structure is available through the Energy Improvement Corporation (EIC). EIC is a local development corporation and a New York State nonprofit established specifically to assist municipalities and property owners achieve long-term energy savings and/or generate renewable power for use on site.

To participate, Oneida County needs to adopt legislation authorizing the establishment of an Energize NY Finance Program. The benefits of designation are the Energize NY Program will provide property owners with application support, finance analysis tools, and assistance with contractor qualifications. Local government officials that implement Energize NY Finance can expect businesses to save money with energy-saving upgrades, provide financing to improve the local building stock and generate new energy efficiency and solar projects.

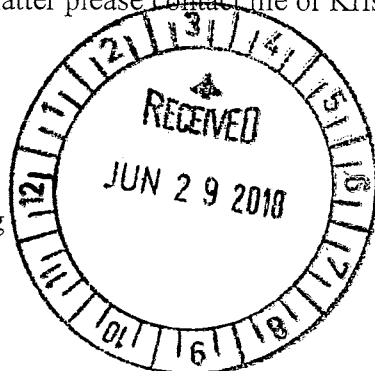
Therefore, we respectfully request that you submit to the Oneida County Board of Legislators a request to adopt legislation authorizing the establishment of an Energize NY Finance Program in Oneida County for building owners to make clean energy improvements. I have attached a copy of the proposed legislation to this letter.

If you are in agreement, please forward this letter and the attached proposed legislation to the Board of Legislators for consideration at their **August 8, 2018** meeting. Should you have any questions regarding this matter please contact me or Kristin E. Campbell, Associate Planner.

Sincerely,

John R. Kent, Jr.

John R. Kent, Jr.
Commissioner of Planning



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
Anthony J. Picente, Jr.
County Executive

Date 6-29-18

**INTRODUCTORY
NO.**

F.N. 2018-

**BOARD OF COUNTY LEGISLATORS
ONEIDA COUNTY**

RESOLUTION NO.

INTRODUCED BY:

2ND BY:

LOCAL LAW INTRO. ____ OF 2018

LOCAL LAW NO. ____ OF 2018

**A LOCAL LAW TO ESTABLISH A SUSTAINABLE ENERGY LOAN PROGRAM
IN THE COUNTY OF ONEIDA.**

BE IT ENACTED BY THE BOARD OF COUNTY LEGISLATORS OF THE COUNTY
OF ONEIDA AS FOLLOWS:

Section 1. This Local Law shall be known as the “Energize NY Benefit Financing Program,” and shall read as follows:

ARTICLE I

§1. Legislative findings, intent and purpose, authority.

- A. It is the policy of both the County of Oneida and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. Oneida County finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This Local Law establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation, acting on behalf of Oneida County pursuant to the municipal agreement to be entered into between Oneida County and EIC pursuant to Article 5-G of the New York General Municipal Law (the “Municipal Agreement”), to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this law and fulfilling an important public purpose.
- B. Oneida County is authorized to implement this Energize NY Benefit Financing Program pursuant to the Municipal Home Rule Law and Article 5-L of the New York General Municipal Law.
- C. This law shall be known and may be cited as the “Energize NY Benefit Financing Program Law of Oneida County.”

§2. Definitions

For purposes of this Local Law, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

Authority – The New York State Energy Research and Development Authority, as defined by subdivision two of section eighteen hundred fifty-one of the Public Authorities Law, or its successor.

EIC – the Energy Improvement Corporation, a local development corporation, duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law, authorized hereby on behalf of Oneida County to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this law) and providing for repayment of such funds from monies collected by Oneida County's tax collecting officer as a charge to be levied on the real property and collected in the same manner and same form as other Oneida County taxes.

Energy Audit – A formal evaluation or “assessment” of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

Energy Efficiency Improvement – Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weather-stripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority, not including lighting measures or household appliances that are not permanently fixed to real property.

Qualified Property Owner – An owner of residential or commercial real property located within the boundaries of Oneida County that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this Local Law.

Renewable Energy System – An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the Qualified Property Owner is a commercial entity in which case the system may be used for other properties in addition to the subject property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the Authority not including the combustion or pyrolysis of solid waste.

Renewable Energy System Feasibility Study – A written study, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of determining the feasibility of installing a renewable energy system.

§3. Establishment of an Energize NY Benefit Financing Program

- A. An Energize NY Benefit Financing Program is hereby established by Oneida County, whereby EIC, acting on its behalf pursuant to the Municipal Agreement, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this law, to finance the acquisition, construction and installation of Renewable Energy Systems and Energy Efficiency Improvements and the verification of the installation of such systems and improvements.
- B. For funds provided to a Qualified Property Owner which is a commercial entity, not-for-profit organization, or entity other than an individual, EIC shall have the authority to impose requirements on the maximum amount of funds to be provided, which may consider factors including but not limited to the property value, projected savings, project cost, and existing indebtedness secured by such property.
- C. For financings made to a Qualified Property Owner who is an individual, the funds provided shall not exceed the lesser of: (i) ten percent of the appraised value of the real property where the Renewable Energy Systems and/or Energy Efficiency Improvements will be located, or (ii) the actual cost of installing the Renewable Energy Systems and/or Energy Efficiency Improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

§4. Procedures for eligibility

- A. Any property owner in Oneida County may submit an application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at Oneida County offices.
- B. Every application submitted by a property owner shall be reviewed by EIC, acting on behalf of Oneida County, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in section 5 of this law. EIC may also request further information from the property owner where necessary to aid in its determination.
- C. If a positive determination on an application is made by EIC, acting on behalf of Oneida County, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under section 6 of this law; provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of Energy Efficiency Improvements and/or Renewable Energy Systems be deemed a Qualified Property Owner.

§5. Application criteria

Upon the submission of an application, EIC acting on behalf of Oneida County, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:

- A. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems are determined to be cost effective based on guidelines issued by the Authority;
- B. The property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;
- C. The amount financed under the Energize NY Benefit Financing Program shall be repaid over a term not to exceed the weighted average of the useful life of Renewable Energy Systems and Energy Efficiency Improvements to be installed on the property as determined by EIC;
- D. Sufficient funds are available from EIC to provide financing to the property owner;
- E. The property owner is current in payments on any existing mortgage;
- F. The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and
- G. Such additional criteria, not inconsistent with the criteria set forth above, as Oneida County, or EIC acting on its behalf, may set from time to time.

§6. Opt-in, Energize NY Finance Agreement

- A. A Qualified Property Owner may participate in the Energize NY Benefit Financing Program through the execution of an Energize NY finance agreement made by and between the Qualified Property Owner and EIC, acting on the behalf of Oneida County (the “Energize NY Finance Agreement”).
- B. Upon execution of the Energize NY Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC, acting on behalf of Oneida County, for the acquisition, construction, and installation of qualifying Renewable Energy Systems and Energy Efficiency Improvements; provided the requirements of Section 7 of this law have been met.
- C. The Energize NY Finance Agreement shall include the terms and conditions of repayment set forth under section 8 of this law.

§7. Energy audit, renewable energy system feasibility study

- A. No funds shall be made available for Energy Efficiency Improvements unless determined to be appropriate through an Energy Audit as defined in Section 2.
- B. No funds shall be made available for a Renewable Energy System unless determined to be feasible through a Renewable Energy System Feasibility Study as defined in Section 2.
- C. The cost of such Energy Audit and/or Renewable Energy System Feasibility Study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

§8. Terms and conditions of repayment

The Energize NY Finance Agreement between the Qualified Property Owner and EIC acting on behalf of Oneida County, shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds paid to the Qualified Property Owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on their Oneida County tax bill and shall be levied and collected at the same time and in the same manner as other Oneida County property taxes, provided that such charge shall be separately listed on the tax bill. Oneida County shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the date the payment is due to be made to Oneida County.
- B. The term of such repayment shall be determined at the time the Energize NY Finance Agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of Oneida County.
- C. The rate of interest for the charge shall be fixed by EIC acting on behalf of Oneida County at the time the Energize NY Finance Agreement is executed by the property owner and EIC.
- D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program as set forth in Article 5-L of the General Municipal Law and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

§9. Verification and report

- A. EIC shall be responsible for verifying and reporting to Oneida County on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such Program.
- B. Oneida County shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

Section 2. This Local Law shall take effect immediately upon filing with the Secretary of State in accordance with Sections 20, 21 and 27 of the New York State Municipal Home Rule Law.

APPROVED: Ways & Means Committee ()

DATED:

Adopted by the following vote:
AYES NAYS ABSENT



Oneida County Department of Planning
Boehlert Center at Union Station, 321 Main Street, Utica, NY 13501

June 21, 2018

2018 226

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, NY 13501

**ECONOMIC DEVELOPMENT
& TOURISM**

WFM

Dear County Executive Picente:

In 2017, the County established the Oneida County Economic Development Grant Program to utilize the County's Program Income Funds to enhance flexibility and affordability, to assist new and existing Oneida County businesses, provide new job opportunities, retain existing jobs and, ultimately, broaden the tax base of Oneida County. This program is administered and implemented by Mohawk Valley Economic Development Growth Enterprises (MVEDGE) as per an executed Subrecipient Agreement dated November 1, 2017.

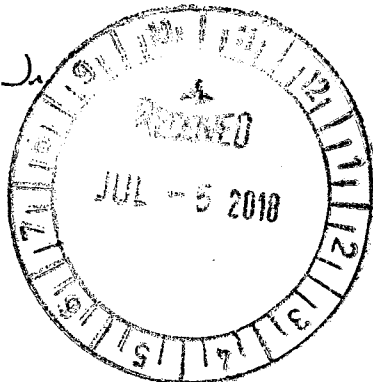
Since that agreement was executed, the County was informed by the New York State Office of Community Renewal that the County may be reimbursed for any of its administrative costs incurred as a result of projects funded through the Oneida County Grant Program. Since the original agreement does not provide for a mechanism for the County's administrative costs to be included in the disbursement of Community Development Block Grant funds by MVEDGE through the Oneida County Economic Development Grant Program, we need to establish a mechanism to reimburse the County's administrative costs.

Thank you for your assistance in this matter.

Sincerely,

John R. Kent, Jr.

John R. Kent, Jr.
Commissioner



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
Anthony J. Picente, Jr.
County Executive

Date 7-5-18

Oneida Co. Department: Planning

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other X

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Economic Development Growth Enterprises Corporation
584 Phoenix Drive
Rome, New York 13441

Title of Activity or Service: Oneida County Economic Development Grant Program utilizing
Community Development Block Grant (CDBG) program income
funds - AMENDMENT

Proposed Dates of Operation: November 1, 2017 – November 1, 2022

Client Population/Number to be Served: Low and moderate-income persons in Oneida
County as per CDBG regulations.

Summary Statements

- 1) **Narrative Description of Proposed Services:** MVEDGE will utilize the funding to provide assistance to businesses within Oneida County with expansion, development and job creation and other activities to enhance and/or grow the business, according to CDBG guidelines/regulations.
- 2) **Program/Service Objectives and Outcomes:** To amend the established Economic Development Grant Program to establish a mechanism to reimburse Oneida County for administrative costs.
- 3) **Program Design and Staffing:** Economic Development project to be administered by MVEDGE.

Total Funding Requested: \$ 489,196.96 (balance as of 8/10/17) **Account #** N/A

Oneida County Dept. Funding Recommendation: \$ 489,196.96

Proposed Funding Sources (Federal \$/ State \$/County \$): State - CDBG Program Income funds

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: None

AMENDMENT NO. 1 TO SUBRECIPIENT AGREEMENT

THIS AMENDMENT NO. 1 TO SUBRECIPIENT AGREEMENT ("Amendment No. 1"), dated as of the ____ day of _____, 2018, is by and between the COUNTY OF ONEIDA, a municipal corporation organized and existing under and by virtue of the laws of the State of New York and having its principal office at 800 Park Avenue, Utica, New York, 13501 (hereinafter referred to as "County") and the ECONOMIC DEVELOPMENT GROWTH ENTERPRISES CORPORATION, a not-for-profit corporation organized and existing under and by virtue of the laws of the State of New York and having its principal office at 584 Phoenix Drive, Rome, New York 13441 (hereinafter referred to as "MVEDGE"). The County and MVEDGE are each, individually, a "Party," and, collectively, the "Parties."

WITNESSETH:

WHEREAS, in 2017, the County established the Oneida County Economic Development Grant Program (the "Oneida County Grant Program"), which is designed to utilize the County's program income funds to enhance flexibility and affordability, to assist new and existing Oneida County businesses, provide new job opportunities, retain existing jobs and, ultimately, broaden the tax base of the County; and

WHEREAS, the Oneida County Grant Program is administered and implemented by MVEDGE pursuant to an executed subrecipient agreement, County Contract #19085, dated November 1, 2017 (the "Original Agreement"); and

WHEREAS, the County has been informed by the New York State Office of Community Renewal that the County may be reimbursed for any of its administrative costs incurred as a result of projects funded through the Oneida County Grant Program; and

WHEREAS, the Original Agreement does not provide for a mechanism for the County's administrative costs to be included in the disbursement of Community Development Block Grant funds (the "CDBG Funds") by MVEDGE pursuant to their administration and implementation of the Oneida County Grant Program; and

WHEREAS, the Parties wish the County's administrative costs to be reimbursed through the use of the CDBG Funds used as a part of the Oneida County Grant Program;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties do mutually agree as follows:

1. For each project approved and implemented by MVEDGE as a part of the Oneida County Grant Program pursuant to the Original Agreement, the County shall provide to MVEDGE a detailed summary of all of the County's administrative costs incurred as a result of the project in question.
2. MVEDGE shall include the County's administrative costs (not to exceed the maximum amount allowable to the County by the New York State Office of Community Renewal) as a part of the budget for the project, and shall reimburse the County for those administrative costs (not to exceed the maximum amount allowable to the County by the New York State Office of Community Renewal) when MVEDGE submits vouchers for the available CDBG Funds.
3. Except as expressly amended herein by this Amendment No. 1, the terms and provisions of the Original Agreement shall remain in full force and effect.
4. This Amendment No. 1 shall be effective upon its execution by both Parties and shall terminate according to the terms and conditions of the Original Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereunto have caused this Amendment No. 1 to the Original Subrecipient Agreement to be signed by their duly authorized officers, attested by their respective signatures.

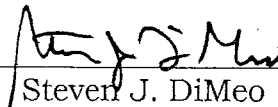
COUNTY:

COUNTY OF ONEIDA

By: _____
Anthony J. Picente, Jr.
County Executive

MVEDGE:

ECONOMIC DEVELOPMENT
GROWTH ENTERPRISES
CORPORATION

By:  _____
Steven J. DiMeo
President

Approved:

By: _____
Robert E. Pronteau
Assistant County Attorney

ONEIDA COUNTY



DEPARTMENT OF FINANCE

ANTHONY J. PICENTE JR.
COUNTY EXECUTIVE

County Office Building ♦ 800 Park Avenue ♦ Utica, New York 13501
(315) 798-5750 ♦ Fax: (315) 735-8371 ♦ www.ocgov.net

May 18, 2018

Mr. Anthony J. Picente, Jr.
Oneida County Executive
County of Oneida
800 Park Avenue
Utica, N.Y. 13501

FN 20 18227

GOVERNMENT OPERATIONS
WAYS & MEANS


Dear County Executive Picente:

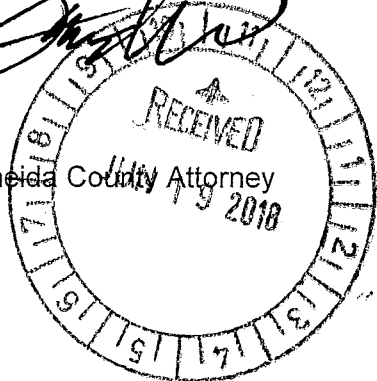
The County of Oneida recently expanded earned income opportunities by investing in obligations of the U.S. Treasury. Wilmington Trust acts as safekeeping agent for the receipt and delivery of the securities as approved by the Commissioner of Finance, and we required a delivery versus payment (DVP) arrangement whereby the securities are first delivered to the safekeeping agent against payment. DVP also ensures that the securities are received and payment is made to the correct securities broker/dealer. As was discussed at that time, the commercial deposit account in the name of Oneida County was established with M&T Bank to accommodate the necessary banking requirements as well as the collateralization requirements for county of Oneida General Fund deposits.

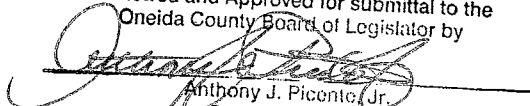
The attached documents accomplish the same for the Capital Fund. A commercial deposit account will be established with M&T Bank to accommodate the necessary banking as well as the collateralization requirements of county Capital Fund deposits. Also enclosed herein please find a copy of the commercial deposit account request, and data profile with M&T Securities, Inc. The custody account at Wilmington Trust remains in place, and a sub-account will be added for the Capital Fund investments. The third party custodial agreement with M&T Bank and the Bank of New York Mellon suffices for all accounts held at M&T Bank. The procedure for the Capital Fund investments will work the same as it does with M&T Securities - as outlined above for the General Fund.

Please review this recommendation. If you should have any questions or concerns, or should require additional information, please contact me at your earliest convenience. Please forward this to the Board of Legislators at your earliest opportunity.

Sincerely,


Anthony Carvelli
cc: Peter Rayhill, Oneida County Attorney



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente Jr.
County Executive
Date 6-19-18

Oneida Co. Department:

Competing Proposal _____
 Only Respondent _____
 Sole Source RFP _____
 Other X

**ONEIDA COUNTY BOARD OF LEGISLATORS
 CONTRACT SUMMARY**

Name & Address of Vendor:

Manufacturers and Traders Trust Co.
 101 South Salina Street
 Syracuse, NY 13202

M&T Securities, Inc.
 Investment Solutions Group
 285 Delaware Ave, Suite 100
 Buffalo, NY 14202

Title of Activity or Service:

Commercial Deposit agreements with M&T Bank
 and M&T Securities, Inc.

Proposed Dates of Operation:

Begins on Execution until canceled by Commissioner
 of Finance

Client Population/Number to be Served:

Summary Statements

1) Narrative Description of Proposed Services: Safekeeping agent will act as a custodian for the receipt and delivery of the securities as approved by the Commissioner of Finance. A delivery versus payment (DVP) arrangement whereby the securities are received and payment is made to the correct securities broker/dealer.

2) Program/Service Objectives and Outcomes: Wilmington Trust encompasses the trust and investment business of M&T Bank. Commercial deposit account will be with M&T Bank for banking and collateralization requirements of county deposits. Also, a third party custodial agreement with M&T Bank and the Bank of New York Mellon. The procedure for the Capital Fund investments will work the same as it does with M&T Securities – as previously outlined for the General Fund.

3) Program Design and Staffing:

Total Funding Requested:

Account #:

Oneida County Dept. Funding Recommendation:

Proposed Funding Sources (Federal \$/ State \$/County \$):

Cost Per Client Served: None known at this time.

Past Performance Data:

O.C. Department Staff Comments – Addition of an account for Capital Fund transactions.

ACCOUNT NO. 15004236648604	COMPLETE A SEPARATE REQUEST FOR EACH ACCOUNT BEING OPENED		DATE May 18, 2018
ACCOUNT TITLE (LEGAL NAME) Oneida County		ACCOUNT TYPE: <input type="checkbox"/> CHECKING <input checked="" type="checkbox"/> SAVINGS <input type="checkbox"/> CERTIFICATE OF DEPOSIT	PRIMARY TELEPHONE NUMBER 315-798-5751
Capital Funds			
U.S. EMPLOYER IDENTIFICATION NUMBER (EIN) 156000460	OR	U.S. SOCIAL SECURITY NUMBER (SSN)	
PRIMARY BUSINESS STREET ADDRESS (P.O. BOX IS NOT ACCEPTABLE) 800 Park Avenue			
CITY Utica	STATE NY	COUNTRY US	ZIP 13501
MAILING ADDRESS (P.O. BOX IS ACCEPTABLE) 800 Park Avenue			
CITY Utica	STATE NY	COUNTRY US	ZIP 13501
<input type="checkbox"/> NEW CUSTOMER <input checked="" type="checkbox"/> EXISTING CUSTOMER	NAICS CODE 921110	PROFILE NUMBER, IF APPLICABLE (Bank Use Only) 12175	
SELECT BUSINESS / ENTITY TYPE			
<input type="checkbox"/> PUBLICLY TRADED <input type="checkbox"/> NOT PUBLICLY TRADED / OPERATING			
<input type="checkbox"/> PERSONAL/NON-OPERATING (WEALTH HOLDING VEHICLE)/CORPORATE TRUSTS			
<input checked="" type="checkbox"/> GOVERNMENT <input type="checkbox"/> NON-GOVERNMENT ORGANIZATION (NGO'S)/NOT FOR PROFIT (NFP)			
<input type="checkbox"/> BANK <input type="checkbox"/> NON - BANK <input type="checkbox"/> FOREIGN FINANCIAL INSTITUTION (FFI) <input type="checkbox"/> FUNDS			

Agreement and Certification: With respect to the Account, the above named Depositor: (1) acknowledges receipt of, and agrees to all provisions of, M&T Bank's Commercial Deposit Account Agreement, the Specific Features and Terms disclosure, the Availability Disclosure for Commercial Deposit Accounts, the Notice Regarding Overdrafts, and all related agreements, schedules of fees and charges, and M&T Bank rules, regulations, procedures and guidelines, all as amended from time to time; and (2) agrees to pay all applicable fees and charges as in effect from time to time, and (3) certifies that all information provided in connection with this account is accurate.

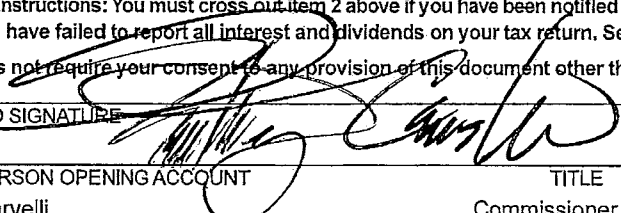
Check this box when the Certification below does not apply as the owner is not a U.S. Citizen or other U.S. person as defined by the IRS and a Form W-8 will be/has been completed.

Certification: As shown on the official Form W-9 that under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined in the instructions), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification Instructions: You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. See the instructions for the separate Form W-9.

The IRS does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

AUTHORIZED SIGNATURE 	DATE May 18, 2018		
NAME OF PERSON OPENING ACCOUNT Anthony Carvelli	TITLE Commissioner of Finance		
REQUIRED IDENTIFICATION: <input type="checkbox"/> 2 PRIMARY <input checked="" type="checkbox"/> 1 PRIMARY AND 2 SECONDARY			
ID TYPE: Entity Website Printout	ID NO: NA	EXP. DATE/ISSUE DATE: NA	ISSUER Oneida County
ID TYPE:	ID NO:	EXP. DATE/ISSUE DATE:	ISSUER
ID TYPE:	ID NO:	EXP. DATE/ISSUE DATE:	ISSUER

DO NOT OPEN an account for the following customer types:

- A Shell bank, Unlicensed Bank, or Unlicensed Broker-dealer
- A Foreign Financial Institution subject to Section 311 designations
- A customer whose shares are held in bearer shares
- An unlawful internet gaming company
- A business directly involved in the growth, manufacturing or distribution of marijuana (MRB)

Accounts for the following customer types may **ONLY** be opened if required approval was obtained (refer to your procedures for the approval process). Check applicable box and indicate approver below:

- The entity allows the issuance of bearer shares in the future
- A Third Party Payment Processor
- A Prepaid Access Processor
- A Foreign Bank operating under a Section 312 offshore banking license
- The customer allows for its customers to transact payments using payable through accounts
- Money Service Businesses (Seller or Issuer of Traveler's Checks or Money Orders, Money Transmitter, Check Cashier, Dealer in foreign exchange)
- An Embassy, Consulate, Diplomatic mission or other legal entity created for diplomatic or consulate purposes
- A business ancillary to the growth, manufacturing or distribution of marijuana for any purpose

Approved by: _____

Is the entity registered, headquartered or does business in other countries outside the U.S.? Yes No

Country of legal formation/Incorporation/Registration? US

If legally formed outside the United States, what country does the entity permanently reside in for income tax purposes?

Country of domicile/headquarters? US

In what country(ies) does the customer derive revenue? US

What type of entity (legal formation/ownership structure) is the customer?

- | | |
|--|--|
| <input type="checkbox"/> Corporations, Inc's | <input type="checkbox"/> Publicly traded/regulated on an approved exchange/federal functional regulator |
| <input type="checkbox"/> Corporate Trusts | <input type="checkbox"/> Publicly traded/regulated by a non-approved exchange/regulator |
| <input type="checkbox"/> Fiduciary Entity (Private Inv. Corp., Private Inv. Vehicle, Private Fund) | <input type="checkbox"/> Sole Proprietors |
| <input type="checkbox"/> General Partnerships | <input type="checkbox"/> Unincorporated Associations |
| <input type="checkbox"/> Government owned bodies established by statute/constitutional document (including Sovereign Trust) | <input type="checkbox"/> Wholly or majority owned (50.1% or more) subsidiary of acceptably listed parent traded/regulated by an approved exchange/federal functional regulator |
| <input type="checkbox"/> Limited Liability Company (LLC), S Corps | <input type="checkbox"/> Wholly or majority owned (50.1% or more) subsidiary of acceptably listed parent traded/regulated by a non-approved exchange/regulator |
| <input type="checkbox"/> Limited Liability Partnership (LLP), Professional Corporation (P.C.), Professional Association (P.A.) or Limited Partnership (LP) | <input type="checkbox"/> Reg US Fin Inst.(Banks Savings Co Credit Union) and Non-Reg (Bank Trust) |
| <input type="checkbox"/> Other Privately Held Corporations (Special Purpose Vehicles, Pooled Investment Vehicles, Venture Capital, Private Equity and Hedge Funds) not covered by other legal structures | <input checked="" type="checkbox"/> US and State Govt Orgs under US or State Law which has Govt authority |

ADDITIONAL BUSINESS/ENTITY INFORMATION

Answer ALL questions below pertaining to the type of business/entity.

PUBLICLY TRADED or NOT PUBLICLY TRADED/OPERATING

If publicly traded, what is the stock ticker symbol and exchange the stock is traded on?

Stock Exchange _____

Stock Ticker Symbol _____

Select the range that best reflects the customer's Annual Sales/Revenue?

- | | |
|--|--|
| <input type="checkbox"/> \$0 - \$100,000 | <input type="checkbox"/> \$750,001 - \$1,000,000 |
| <input type="checkbox"/> \$100,001 - \$250,000 | <input type="checkbox"/> \$1,000,001 - \$2,500,000 |
| <input type="checkbox"/> \$250,001 - \$500,000 | <input type="checkbox"/> \$2,500,001 - \$5,000,000 |
| <input type="checkbox"/> \$500,001 - \$750,000 | <input type="checkbox"/> \$5,000,001 + |

Is the customer publicly traded (applies to the highest hierarchy level of the customer's corporate structure, i.e., the customer's parent)?

- Yes No

If yes, on what stock exchange(s) are the shares of the customer?

Are there any Ultimate Beneficial Owners (UBOs) meeting KYC ownership requirements?

- | | |
|---|---|
| <input type="checkbox"/> Yes, UBOs confirmed to 25% threshold | <input type="checkbox"/> Yes, UBOs confirmed to 10% threshold |
| <input type="checkbox"/> No, no UBOs meet the 25% threshold | <input type="checkbox"/> No, no UBOs meet the 10% threshold |
| <input type="checkbox"/> Not Required | |

PERSONAL/NON-OPERATING (WEALTH HOLDING VEHICLE)/CORPORATE TRUSTS

Did you obtain the Governing Instrument (e.g. trust doc, will, etc.)?

- Yes No

Governing Instrument Document Type?

- Trust Agreement Will
 Trustee Certificate LLC or Operating Agreement
 Letters of Testamentary/Letters of Administration/Short Certificate Partnership Agreement

What is the customer's total net worth?

- \$0 - \$1,000,000
 \$1,000,001 - \$3,000,000
 \$ 3,000,001 - \$5,000,000
 \$5,000,001 +

What is the customer's net worth broken down by assets?

- \$0 - \$1,000,000
 \$1,000,001 - \$3,000,000
 \$ 3,000,001 - \$5,000,000
 \$5,000,001 +

What is the customer's net worth broken down by liabilities?

- \$0 - \$1,000,000
 \$1,000,001 - \$3,000,000
 \$ 3,000,001 - \$5,000,000
 \$5,000,001 +

What is the purpose of the vehicle?

What is the name of the company that assisted in establishing the WHV?

What is the customer's source of wealth?

- Business Revenue
 Inheritance
 Gift
 Insurance Proceeds
 Legal Settlement
 Investment Proceeds
 Savings
 Lottery or Gaming Proceeds
 Pension/IRA/Retirement
 Occupational Earnings
 Income from Earnings
 Sale of Business
 Real Estate
 Spouse or Parent
 Other _____

What is the name of the customer's business(es)?

Are there any Ultimate Beneficial Owners (UBOs) meeting KYC ownership requirements?

- Yes, UBOs confirmed to 25% threshold Yes, UBOs confirmed to 10% threshold
 No, no UBOs meet the 25% threshold No, no UBOs meet the 10% threshold
 Not Required

NON-GOVERNMENT ORGANIZATION (NGO'S)/NOT FOR PROFIT (NFP)

What is the purpose of the organization?

- Charity Religious Other _____
 Foundation Clubs/Society _____
 Education Cooperative _____

GOVERNMENT

Did you obtain a printout from the Government Website?

- Yes No

BANK or NON-BANK or FFI

Did you obtain a copy of the Financial Institutions License/Registration? (NON-BANK and FFI ONLY)

Yes No

In what year was the Financial Institution's License/Registration issued? _____

In what year does the Financial Institution's License/Registration expire? _____

By what country/jurisdiction was the License/Registration issued? _____

Banking Licensing type? (BANK and FFI ONLY)

- General Banking (Unrestricted)
- Restricted Banking (Not Offshore)
- Offshore Banking

If bank is regulated, what is the bank's regulator website? (BANK & FFI ONLY) _____

If publicly traded, what is the stock ticker symbol and exchange stock is traded on? (BANK & FFI ONLY)

Stock Exchange _____

Stock Ticker Symbol _____

If bank is government owned, did you obtain a printout from the Government Website? (BANK and FFI ONLY) Yes No

Is the customer publicly traded (applies to the highest hierarchy level of the customer's corporate structure, i.e.; the customer's parent)?

Yes No

If yes, on what stock exchange(s) are the shares of the customer?

Patriot Act/Foreign Bank certification Date (MMDDYYYY)? (FFI ONLY)

Select the range that best reflects the customer's Annual Sales/Revenue?

- | | |
|--|--|
| <input type="checkbox"/> \$0 - \$100,000 | <input type="checkbox"/> \$750,001 - \$1,000,000 |
| <input type="checkbox"/> \$100,001 - \$250,000 | <input type="checkbox"/> \$1,000,001 - \$2,500,000 |
| <input type="checkbox"/> \$250,001 - \$500,000 | <input type="checkbox"/> \$2,500,001 - \$5,000,000 |
| <input type="checkbox"/> \$500,001 - \$750,000 | <input type="checkbox"/> \$5,000,001 + |

Are there any Ultimate Beneficial Owners (UBOs) meeting KYC ownership requirements?

- | | |
|---|---|
| <input type="checkbox"/> Yes, UBOs confirmed to 25% threshold | <input type="checkbox"/> Yes, UBOs confirmed to 10% threshold |
| <input type="checkbox"/> No, no UBOs meet the 25% threshold | <input type="checkbox"/> No, no UBOs meet the 10% threshold |
| <input type="checkbox"/> Not Required | |

FUNDS

Is the customer publicly traded (applies to the highest hierarchy level of the customer's corporate structure)?

Yes No

If yes, on what stock exchange(s) are the shares of the customer?

Select the range that best reflects the customer's Annual Sales/Revenue?

- | | |
|--|--|
| <input type="checkbox"/> \$0 - \$100,000 | <input type="checkbox"/> \$750,001 - \$1,000,000 |
| <input type="checkbox"/> \$100,001 - \$250,000 | <input type="checkbox"/> \$1,000,001 - \$2,500,000 |
| <input type="checkbox"/> \$250,001 - \$500,000 | <input type="checkbox"/> \$2,500,001 - \$5,000,000 |
| <input type="checkbox"/> \$500,001 - \$750,000 | <input type="checkbox"/> \$5,000,001 + |

What type of fund is the customer?

- Mutual Fund (SEC registered)
- Hedge Fund
- Private Equity Fund
- Real Estate Fund
- Venture Capital Fund
- Private Investment Fund (Other)
- Common Trust Fund/Collective Trust Fund
- Offshore Fund
- Other (specify): _____

What are the aggregate assets under management of the Investment Manager?

- \$0 - \$25,000,000
- \$25,000,001 - \$100,000,000
- \$100,000,001 +

Who is the target customer of the fund and method of marketing?

- Retail/Public Sale
- Institutional/Private Sale
- Institutional/Public Sale
- Government

Does the customer accept investments from Shell Banks?

Yes No

Did you obtain an AML letter? Yes No

Name of fund? _____

Name of fund manager? _____

Are there any Ultimate Beneficial Owners (UBOs) meeting KYC ownership requirements?

- | | |
|---|---|
| <input type="checkbox"/> Yes, UBOs confirmed to 25% threshold | <input type="checkbox"/> Yes, UBOs confirmed to 10% threshold |
| <input type="checkbox"/> No, no UBOs meet the 25% threshold | <input type="checkbox"/> No, no UBOs meet the 10% threshold |
| <input type="checkbox"/> Not Required | |

EXPECTED ACCOUNT ACTIVITY**ANSWER FOR ALL ACCOUNT TYPES:**

What is the purpose of the account?

- Primary Transaction Account Special Purpose Transaction Account
 Short Term Savings Long Term Savings

ANSWER FOR CHECKING AND SAVINGS:

Will any trade finance products or services be associated with this account (e.g. Letters of Credit)?

- Yes No

What is the primary method you will use to access your account (choose one)?

- Cash Check Wire ACH
 Debit Card Purchases Transfers M&T Web Bill Pay

Will you frequently use your account for any transactions outside of the U.S. (including wires, ATM, purchases or electronic withdrawals)?

- Yes No

If Yes, which countries outside of U.S.? _____

What is the approximate number of transactions (include all deposits, withdrawals and purchases) that will be processed through your account monthly?

- Less than 100 Between 100 – 1000 1000 or more

For cash transactions, what is the approximate number of deposits, payments or withdrawals/advances you will be making monthly?

- None Less than 50 50 or more

What is the approximate number of monetary instruments (Official Checks, Money Orders or Travelers Checks) that will be purchased from or deposited into this account monthly?

- None Less than 50 50 or more

What is the approximate number of total wire transactions (Incoming and outgoing) you will be making in the account monthly?

- None Less than 10 10 or more

What is the approximate number of preauthorized withdrawals, payments, and deposits (ACH transactions) you will do in this account monthly?

- None Less than 50 50 or more

Will this account be using Remote or Mobile Check Deposit?

- Yes No

Will you be using your account for internet casino or internet gaming transactions?

- Yes No

Record required information for Ultimate Beneficial Owners (UBOs) and Controlling Parties who are INDIVIDUALS below. (Print additional pages if needed).
 Note: Only enter UBO's who own 25% or more of a company. UBO's not required for Publicly Traded, Government, Bank (Domestic FI), NGO or NFP entities. Controlling Parties not required for Publicly Traded or Government entities. Not required to enter Controlling Parties related to the account. (Signer information is captured on resolution).

Ultimate Beneficial Owner (UBO)		
NAME	SOCIAL SECURITY #	DATE OF BIRTH
ADDRESS		
ROLE/TITLE IF CONTROLLING PARTY	COUNTRY(IES) OF CITIZENSHIP	COUNTRY OF RESIDENCE
Percentage of Ownership Interest (Keep Blank if Trustee) _____		
<input type="checkbox"/> Please check here if this individual is the trustee of a trust with at least 25% ownership interest in the legal entity. Name of the Trust _____ % of Ownership of the Trust _____		
<input type="checkbox"/> Please check here if this individual also meets the definition of a Primary Controlling Party.		
For Bank Use Only		
Identification Type Presented: _____	Identification Number: _____	State (if U.S.) / Country of Issuance: _____

Ultimate Beneficial Owner (UBO)		
NAME	SOCIAL SECURITY #	DATE OF BIRTH
ADDRESS		
ROLE/TITLE IF CONTROLLING PARTY	COUNTRY(IES) OF CITIZENSHIP	COUNTRY OF RESIDENCE
Percentage of Ownership Interest (Keep Blank if Trustee) _____		
<input type="checkbox"/> Please check here if this individual is the trustee of a trust with at least 25% ownership interest in the legal entity. Name of the Trust _____ % of Ownership of the Trust _____		
<input type="checkbox"/> Please check here if this individual also meets the definition of a Primary Controlling Party.		
For Bank Use Only		
Identification Type Presented: _____	Identification Number: _____	State (if U.S.) / Country of Issuance: _____

Ultimate Beneficial Owner (UBO)		
NAME	SOCIAL SECURITY #	DATE OF BIRTH
ADDRESS		
ROLE/TITLE IF CONTROLLING PARTY	COUNTRY(IES) OF CITIZENSHIP	COUNTRY OF RESIDENCE
Percentage of Ownership Interest (Keep Blank if Trustee) _____		
<input type="checkbox"/> Please check here if this individual is the trustee of a trust with at least 25% ownership interest in the legal entity. Name of the Trust _____ % of Ownership of the Trust _____		
<input type="checkbox"/> Please check here if this individual also meets the definition of a Primary Controlling Party.		
For Bank Use Only		
Identification Type Presented: _____	Identification Number: _____	State (if U.S.) / Country of Issuance: _____

Ultimate Beneficial Owner (UBO)		
NAME	SOCIAL SECURITY #	DATE OF BIRTH
ADDRESS		
ROLE/TITLE IF CONTROLLING PARTY	COUNTRY(IES) OF CITIZENSHIP	COUNTRY OF RESIDENCE
Percentage of Ownership Interest (Keep Blank if Trustee) _____		
<input type="checkbox"/> Please check here if this individual is the trustee of a trust with at least 25% ownership interest in the legal entity. Name of the Trust _____ % of Ownership of the Trust _____		
<input type="checkbox"/> Please check here if this individual also meets the definition of a Primary Controlling Party.		
For Bank Use Only		
Identification Type Presented: _____	Identification Number: _____	State (if U.S.) / Country of Issuance: _____

Ultimate Beneficial Owner (UBO)		
NAME	SOCIAL SECURITY #	DATE OF BIRTH
ADDRESS		
ROLE/TITLE IF CONTROLLING PARTY	COUNTRY(IES) OF CITIZENSHIP	COUNTRY OF RESIDENCE
Percentage of Ownership Interest (Keep Blank if Trustee) _____		
<input type="checkbox"/> Please check here if this individual is the trustee of a trust with at least 25% ownership interest in the legal entity. Name of the Trust _____ % of Ownership of the Trust _____		
<input type="checkbox"/> Please check here if this individual also meets the definition of a Primary Controlling Party.		
For Bank Use Only		
Identification Type Presented: _____	Identification Number: _____	State (if U.S.) / Country of Issuance: _____

Ultimate Beneficial Owner (UBO)		
NAME	SOCIAL SECURITY #	DATE OF BIRTH
ADDRESS		
ROLE/TITLE IF CONTROLLING PARTY	COUNTRY(IES) OF CITIZENSHIP	COUNTRY OF RESIDENCE
Percentage of Ownership Interest (Keep Blank if Trustee) _____		
<input type="checkbox"/> Please check here if this individual is the trustee of a trust with at least 25% ownership interest in the legal entity. Name of the Trust _____ % of Ownership of the Trust _____		
<input type="checkbox"/> Please check here if this individual also meets the definition of a Primary Controlling Party.		
For Bank Use Only		
Identification Type Presented: _____	Identification Number: _____	State (if U.S.) / Country of Issuance: _____

Primary Controlling Party (not applicable if Ultimate Beneficial Owner is also Primary Controlling Party)		
NAME	SOCIAL SECURITY #	DATE OF BIRTH
ADDRESS		
ROLE/TITLE	COUNTRY(IES) OF CITIZENSHIP	COUNTRY OF RESIDENCE
For Bank Use Only		
Identification Type Presented: _____	Identification Number: _____	State (if U.S.) / Country of Issuance: _____

Additional Controlling Parties		
NAME	SOCIAL SECURITY #	DATE OF BIRTH
ADDRESS		
ROLE/TITLE	COUNTRY(IES) OF CITIZENSHIP	COUNTRY OF RESIDENCE

Additional Controlling Parties		
NAME	SOCIAL SECURITY #	DATE OF BIRTH
ADDRESS		
ROLE/TITLE	COUNTRY(IES) OF CITIZENSHIP	COUNTRY OF RESIDENCE

Additional Controlling Parties		
NAME	SOCIAL SECURITY #	DATE OF BIRTH
ADDRESS		
ROLE/TITLE	COUNTRY(IES) OF CITIZENSHIP	COUNTRY OF RESIDENCE

Additional Controlling Parties		
NAME	SOCIAL SECURITY #	DATE OF BIRTH
ADDRESS		
ROLE/TITLE	COUNTRY(IES) OF CITIZENSHIP	COUNTRY OF RESIDENCE

Record required information for Controlling Parties that are ENTITIES below. (Print additional pages if needed). Controlling Parties are not required for Publicly Traded or Government entities. Not required to enter Controlling Parties related to the account. (Signer information is captured on resolution).

Controlling Party - Entity	
REGULATED ENTITY? <input type="checkbox"/> YES <input type="checkbox"/> NO	PUBLICLY TRADED? <input type="checkbox"/> YES <input type="checkbox"/> NO
IF YES: NAME OF REGULATOR	IF YES: NAME OF THE PRIMARY EXCHANGE
ASSOCIATED COUNTRY OF REGULATOR	COUNTRY OF THE PRIMARY EXCHANGE
NAME OF CONTROLLING PARTY EIN	TRADING SYMBOL
ROLE/TITLE IF CONTROLLING PARTY	COUNTRY OF FORMATION
ADDRESS	

CERTIFICATION	
I, <u>Anthony Carvelli</u> (name of natural person opening the account or providing the above information), hereby certify, to the best of my knowledge, that the information provided above is complete and correct.	
SIGNATURE: _____	DATE: <u>May 18, 2018</u>

FOR BANK USE ONLY

Branch No. 2165 Open Date _____

Employee Name/Employee Number 33671

Does the customer have another deposit account open more than 30 days?

Yes No

Owner Code 04 Sub-Owner Code 08

Mail Code 00 Tax Code PC

00 = Mail PC = Valid EIN
06 = Foreign PF = Alien

Customer Contact (Delivery Channel): In-Person Mail Telephone

SOURCE OF INITIAL DEPOSIT

- | | | |
|---|--|---|
| <input type="checkbox"/> Check | <input type="checkbox"/> Bonds | <input type="checkbox"/> Currency (if more than \$10,000 in cash, check all of the following that apply): |
| <input type="checkbox"/> Internal Transfer | <input type="checkbox"/> Travelers Checks | <input type="checkbox"/> Business Revenue |
| <input type="checkbox"/> ACH | <input type="checkbox"/> Certified Checks | <input type="checkbox"/> Inheritance |
| <input type="checkbox"/> Incoming Wire | <input type="checkbox"/> Mutual Funds / Broker | <input type="checkbox"/> Closing of another account |
| <input type="checkbox"/> Proceeds from M&T Loan | | <input type="checkbox"/> Sale of personal item |
| | | <input type="checkbox"/> Other bank |
| | | <input type="checkbox"/> Not willing to provide |

ACCOUNT SPECIFICS

CHECKING

- | | |
|---|--|
| <input type="checkbox"/> Simple Checking for Business (R6) | <input type="checkbox"/> Non-Profit Checking (Y2) |
| <input type="checkbox"/> Advanced Business Checking (V0) | <input type="checkbox"/> Business Interest Checking (S2) |
| <input type="checkbox"/> Biz Flex Checking (T4) | <input type="checkbox"/> Corporate (U2) |
| <input type="checkbox"/> Medical Services Checking (V6) | <input type="checkbox"/> Corporate Checking w/int (U3) |
| <input type="checkbox"/> IOLA / IOLTA/MAHT /M.J-IOTA NOW (O2) | <input type="checkbox"/> Corp. Not-For-Profit NOW |
| <input type="checkbox"/> Professional Services Checking (V7) | <input type="checkbox"/> Muni Investment NOW (N2) |
| <input type="checkbox"/> Commercial Checking (T2) | <input type="checkbox"/> Other Subproduct Code _____ |

Account Number _____ Deposit Amount _____

SAVINGS

- Commercial Money Market Savings (8G)
 Commercial Statement Savings (7G)
 Market Advantage for Business (8I)
 Corporate Money Market Savings (8N)
 Other Sub-Product Code 6G

Account Number 15004236648604 Deposit Amount _____

CERTIFICATE OF DEPOSIT

Sub-product _____ Interest Rate _____ Bonus Points _____ Term _____ Maturity Date _____ Single Maturity

Account Number _____ Deposit Amount _____

Interest Credit Period

- Monthly (1M) Quarterly (1Q) Biannually (1S) Annually (1Y)

Interest Disposition _____

TA = Reinvest TT = Transfer to CO = Pay by check

Credit Account Number _____

ANTHONY R. CARVELLI
COMMISSIONER

ONEIDA COUNTY
ANTHONY J. PICENTE JR.
COUNTY EXECUTIVE



DEPARTMENT OF FINANCE

County Office Building ♦ 800 Park Avenue ♦ Utica, New York 13501
(315) 798-5750 ♦ Fax: (315) 735-8371 ♦ www.ocgov.net

May 18, 2018

Sally Molina
Assistant Vice President
Wilmington Trust, N.A.
1100 N. Market Street
Wilmington, DE 19890

Re: Oneida County-Capital Fund

Dear Ms. Molina

Please accept this letter as authorization to transfer funds between our Oneida County Capital Fund M&T Money Market account #XXXXXXXXX648604 and our custody account # XXX113-001.

These are standing instructions for funds moving into the custody for trade settlement and back to the bank for idle cash generated by investments in the custody account.

Thank you,

A large, stylized handwritten signature in black ink, appearing to read 'Anthony Carvelli'. The signature is written over the 'Thank you,' text.

Anthony Carvelli
Commissioner of Finance

ANTHONY R. CARVELLI
COMMISSIONER

ONEIDA COUNTY

ANTHONY J. PICENTE JR.
COUNTY EXECUTIVE



DEPARTMENT OF FINANCE

County Office Building ♦ 800 Park Avenue ♦ Utica, New York 13501
(315) 798-5750 ♦ Fax: (315) 735-8371 ♦ www.ocgov.net

May 18, 2018

John Zuchlewski
M&T Securities, Inc.
285 Delaware Avenue, Suite 100
Buffalo, NY 14202

Brokerage account for **Oneida County- Capital Fund**

Regarding the upcoming activity in our M&T Securities brokerage account, **AZWXXXX49** most, if not all of the funds to be invested are the result of municipal bond proceeds.

Sincerely,


A handwritten signature in black ink, appearing to read 'Anthony Carvelli'. The signature is stylized and cursive, with a large loop at the end.

Anthony Carvelli
Commissioner of Finance



PUBLIC FUNDS CERTIFIED RESOLUTION

ACCOUNT NUMBER 15004236648604 SAFE DEPOSIT BOX _____ SAFE DEPOSIT BOX
BRANCH LOCATION (CC#) _____ NUMBER _____
DEPOSITOR Oneida County
Capital Funds

NAME Anthony Carvelli
ROLE / TITLE Commissioner of Finance
ADDRESS 800 Park Avenue
Utica, New York 13501
TELEPHONE 315-798-5750
EMAIL ADDRESS (if available) acarvelli@ocgov.net
U.S. SSN _____
COUNTRY(IES) OF CITIZENSHIP US
COUNTRY OF RESIDENCE US
DATE OF BIRTH 11/4/1956
SIGNATURE 

NAME Kathy Pilbeam
ROLE / TITLE Deputy Commissioner
ADDRESS 800 Park Ave
Utica, New York 13501
TELEPHONE 315-798-5756
EMAIL ADDRESS (if available) kpilbeam@ocgov.net
U.S. SSN _____
COUNTRY(IES) OF CITIZENSHIP US
COUNTRY OF RESIDENCE US
DATE OF BIRTH 5/22/1965
SIGNATURE Kathy A. Pilbeam

~~**NAME** _____
ROLE / TITLE _____
ADDRESS _____
TELEPHONE _____
EMAIL ADDRESS (if available) _____
U.S. SSN _____
COUNTRY(IES) OF CITIZENSHIP _____
COUNTRY OF RESIDENCE _____
DATE OF BIRTH _____
SIGNATURE _____~~

~~**NAME** _____
ROLE / TITLE _____
ADDRESS _____
TELEPHONE _____
EMAIL ADDRESS (if available) _____
U.S. SSN _____
COUNTRY(IES) OF CITIZENSHIP _____
COUNTRY OF RESIDENCE _____
DATE OF BIRTH _____
SIGNATURE _____~~

I certify that Depositor named above has duly authorized the opening of a deposit account pursuant to the agreement on M&T Bank's Commercial Deposit Account Opening Request, and that I am duly authorized to act on behalf of Depositor; that Depositor is:

- an agency or department of the United States,
- an agency, division or department of the State of _____,
- a State of New York local government entity (county, town, village),
- a school district,
- a fire district, or
- other _____

duly organized and validly existing under the laws of the State of New York; and, if applicable, that the resolutions set forth below or provided separately to M&T Bank have been duly adopted by the Board of Depositor, at a meeting duly called and held on _____, _____ that each of such resolutions is in full force and effect and none has been rescinded, revoked, or modified; and that none of such resolutions nor any action pursuant thereto will violate any law, rule, regulation, charter, by-law or agreement by which Depositor is governed, constituted or bound. RESOLVED, that:

1. Manufacturers and Traders Trust Company ("M&T Bank"), a New York banking corporation, is hereby designated a depository for this entity (the "Depositor") and the officers or employees named herein or on a Rider hereto are hereby authorized to open one or more deposit accounts from time to time (each an "Account") on behalf of Depositor.
2. M&T Bank may purchase, give credit for, cash, accept, certify and pay from funds on deposit in the Account, without inquiry, all items signed, drawn, accepted or endorsed on behalf of Depositor, whether under a title, the words "Authorized Signature" or otherwise, with the actual or purported facsimile signature of any one of the officials whose names, capacities and specimen signatures appear above or on a Rider hereto, or his or her successor in office (each an "Authorized Signer"), regardless of the circumstances under which the signature shall have become affixed so long as the signature is the actual signature of an Authorized Signer or resembles the facsimile signature of an Authorized Signer previously certified to M&T Bank. Depositor shall indemnify M&T Bank against all claims, damages, liabilities, costs and expenses (including, but not limited to, attorneys' fees and disbursements) incurred by M&T Bank in connection with honoring any signature of any Authorized Signer (including any facsimile signature that resembles the facsimile signature of an Authorized Signer previously certified to M&T Bank) or any refusal to honor the signature of any person who is not an Authorized Signer. Depositor acknowledges and agrees that any requirement of Depositor that any item or other instrument for the payment of money signed, drawn, accepted or endorsed on behalf of Depositor bear the signature of more than one Authorized Signer is solely an internal requirement of Depositor and imposes no duty of enforcement on M&T Bank.
3. Any Authorized Signer may, on behalf of Depositor, transact with and through M&T Bank all such business as he or she deems advisable upon such terms as he or she deems proper, including, but not limited to, obtaining an undertaking and pledge of collateral for uninsured balances in the Account, entering into custodial agreements concerning such collateral, obtaining such loans and other extensions of credit as may be consistent with applicable law, discounting, selling, assigning, delivering and negotiating items, guaranteeing the obligations of others pursuant to applicable law, applying for letters of credit, electronic funds transfers, capital markets products, automated clearing house ("ACH") payments, cash management, trust and investment products and any other services or transactions, and, in compliance with all applicable law and procedures, pledging, hypothecating, assigning, mortgaging, encumbering, granting security interests in and otherwise creating liens upon Depositor's property, whether real or personal, tangible or intangible ("Property"), as security for loans and other extensions of credit, and in connection with any such transaction of business do all acts or other things as he or she shall deem proper including, but not limited to, signing, drawing, accepting, executing and delivering items, guarantees, assignments, pledges, hypothecations, receipts, waivers, releases and other instruments, agreements and documents, making and receiving delivery of Property, accepting, receiving, withdrawing and waiving demands and notices and incurring and paying liabilities, costs and expenses.
4. In the event an Authorized Signer acting on behalf of Depositor shall apply to or contract with M&T Bank for any electronic funds transfer service that M&T Bank may make available to Depositor, including, but not limited to, any service that contemplates M&T Bank's execution of payment orders initiated by Depositor for the wire or ACH transfer of funds to or from an Account of Depositor, such Authorized Signer shall be empowered on behalf of Depositor to designate one or more persons (who may, but need not be, Authorized Signers), each of whom, acting alone, shall be authorized on behalf of Depositor to transmit payment orders to M&T Bank for the transfer of funds to or from Depositor's Account.
5. Each person identified as an Authorized Signer, and each person or persons designated by an Authorized Signer to act on behalf of Depositor (who may, but need not be, Authorized Signers), shall have the power and authority to transact business and bind Depositor through electronic medium (e.g., the Internet) and M&T Bank may rely on any of the following to the same extent as the actual signature and proof of identity of each such person to bind Depositor: any electronic signature or digital signature, under applicable law, of such person; any identifier issued by M&T Bank, its affiliates or any other party (e.g., Personal Identification Number associated with ATM or other card or any access device) to such person; or any other criteria that M&T Bank may reasonably rely on which may serve as an indicator of authentication for such person.

I further certify that each person whose name appears above or on a Rider hereto opposite an office has been duly elected or appointed to and now holds such office of Depositor; that each other person whose name thus appears is acting for Depositor in the capacity opposite such other person's name; and that each signature on this certification or a Rider hereto is a true specimen of the signature of the person whose signature it purports to be.

	X	
	Authorized Signature	Clerk
Date		Title

PUBLIC DEFENDER
Frank J. Nebush, Jr., Esq.

Oneida County Public Defender
Criminal Division

CHIEF APPELLATE COUNSEL
Patrick J. Marthage, Esq.

CHIEF TRIAL COUNSEL
Leland D. McCormac III, Esq.

Main Office

250 Boehlert Center at Union Station
321 Main Street
Utica, New York 13501
Telephone: (315) 798-5870 • Fax: (315) 734-0364
e-mail: Pubdef@ocgov.ny.us

INVESTIGATOR'S OFFICE
James J. Larabee, Sr. Investigator

Utica City Court
411 Oriskany Street, West
Utica, New York 13502
Telephone: (315) 735-6671
Fax: (315) 724-3407

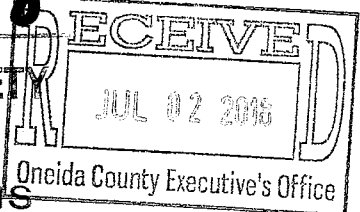
Rome City Court
100 West Court Street
Rome, New York 13440
Telephone: (315) 334-7012
Fax: (315) 334-1196

Thursday, June 28, 2018

FN 20

18 228

PUBLIC SAFETY



Hon. Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

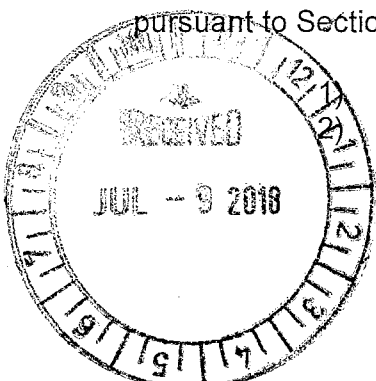
WAYS & MEANS

Re: Certification of Section 606 Expenses

Osvaldo Acosta, Joseph Alacqua, Allah Ali, Darnell Baker, Joshua L. Baltz, Amar Bell, Robert J. Belmonte, Justan Bilous, Darren Booze, Latiek Briggs, Jayquan Byers, Lavonzel Bynym, John Capella, Roberto Cerna, Shane Collins, Dionte Cooper, Mario Correa, Douglas Coudrey, Curtis V. Cruell, Carlos S. Cruz, Timothy Daniels, Raiquon Davis, Alfred Diaz, Filberto Diaz, Julian O. Diaz, Malik A. Durham, Jordan M. Earley, Dejuan Fells, Ruffi Fernandez, Travien L. Ferguson, Rodney Ferrer, Dennis Figueroa, William J. Foley, Jesse Glenn, Alie Goodwyn, Jermaine Gotham, Arthur W. Hale, Adam J. Hall, Blake M. Hamilton, Adarryll Hammond, Taiwan Harris, Robert Homer, Charles Hubbard, Chris Janothan, David John, Edward Johnson, Raymond E. Johnston, Michael Kennedy, Michael J. Lanzafame, Francisco Leon, Dustin M. Locicero, Anthony Long, Nysaiah Luster, Davon S. Macon, Henry C. Marling, Christopher A. Marrero, Mena Marshall, Anthony Martinez, Brian D. McMullen, Jr., Keshawn McMurrin, Christopher Medina, Marvin Mendez, Avery Millington, Jacquille Mills, Jeremy Moose, Albertino Nogueira, Jonathan Nunez, Gilchrist Nyrique, Bernard Ousmane, Mark Owens, Damian Pacheco, Angel Perez, Elvis Perez, Juan Perez, Shamel Pitt, Robert W. Plantiko, Edwin Ramos, Louis A. Reyes, Jose Rivera, James Robbins, Lance Robinson, Kareem Rochard, Michael Schrom, Elija Selman, Kenneth Shelton, Dejuan Smartt, Louis Smith, Ronald Snyder, Emerson Stedford, John A. Stone, Tajon Terry, Todd Thompson, Luis Vega, MacArthur Wade, Jacob C. Wagoner, Akeem Weeks, Jerry I. Welch, Rickey White, Harold T. Wilkes, Dakota Williams, Reaquan Wimbush, and Khaled H. Yaghi, being inmates of the State of New York.

Dear Mr. Picente:

Enclosed are the following documents I am requesting be submitted to the Oneida County Board of Legislators for a resolution from them certifying my claim for reimbursement from the State of New York for representing the above state inmates pursuant to Section 606 of the Correction Law and Title 7, Part 410 of the NYCRR:



Proposed resolution certifying our expenses,
Sworn affidavit of the Oneida County Public Defender, Criminal
Division setting forth the indictments and the time spent
representing the above clients.

Upon approval by the Board of Legislators, the certification needs to be attached to this packet and forwarded to the Oneida County Comptroller for his signature on the payment voucher prior to submission to the State.

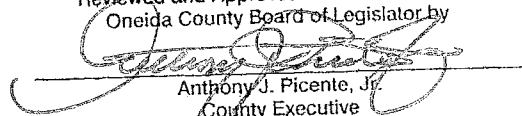
Should you need further information regarding this matter, please do not hesitate to contact me.

Sincerely,



Frank J. Nebush, Jr.
Oneida County Public Defender, Criminal Division

Reviewed and Approved for submittal to the
Oneida County Board of Legislators by



Anthony J. Picente, Jr.
County Executive

Date 7-7-18

ONEIDA COUNTY
OFFICE OF THE DISTRICT ATTORNEY

Scott D. McNamara
District Attorney

Michael A. Coluzza
First Assistant

Laurie Lisi
Matthew P. Worth
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Grant J. Garramone
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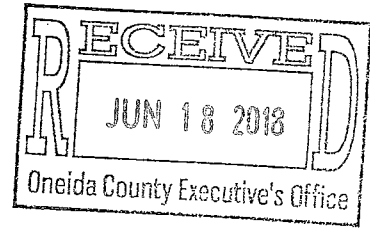
2018229

PUBLIC SAFETY

WAYS & MEANS

May 10, 2018

The Honorable Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501



Dear Mr. Picente:

Enclosed please find documents pertaining to the expenses incurred by the Oneida County District Attorney's Office with regard to the investigation and/or prosecution of State of New York inmates.

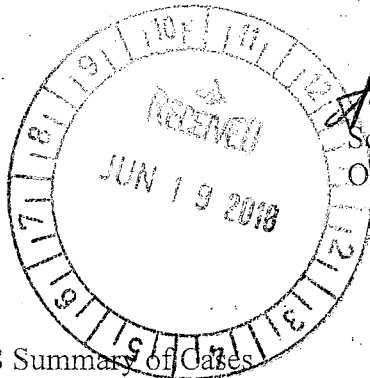
Please review this material at your earliest convenience and forward it to the Board of Legislatures for their review and approval.

If you have any questions or concerns, please contact my office.

Thank you.

Very truly yours,

Scott D. McNamara
Oneida County District Attorney



sw

Encs. State Billing 2018 Summary of Cases
State Aid Voucher
Proposed Resolution

Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
County Executive

Date 6-18-18



ONEIDA COUNTY DEPARTMENT OF PERSONNEL

County Office Building 800 Park Avenue Utica, New York 13501-2986
Phone: (315) 798-5725 Fax: (315) 798-6490 Email: personnel@ocgov.net
Web site: www.ocgov.net

June 13, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

FN 20 18-230

PUBLIC SAFETY

WAYS & MEANS

Dear County Executive Picente:

I have attached the job specification for the title of Law Associate. I have added the title to the Oneida County Classification Plan, and I am recommending the salary for this title be set at Grade 30P, Step 2 at \$43,803. I am not requesting any positions be created at this time.

The District Attorney's Office has expressed the need to have the ability to hire recent law school graduates that have not yet been sworn in as attorneys. By not currently having the ability to do so, they are losing a large pool of candidates to other places that have the ability to hire them. This pool of candidates is highly sought after as hiring this particular demographic allows individuals to learn about the practice of an extremely important and complicated area of the law from the ground up.

Please forward this letter to the Board of Legislators and ask that they only set the salary for the title Law Associate at Grade 30P, Step 2 at \$43,803.

Sincerely,

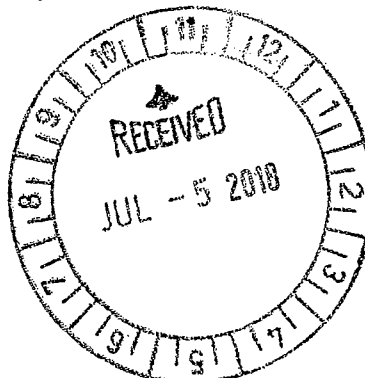
John P. Talerico
Commissioner of Personnel

Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
County Executive

Date 6-14-18

Copy: Scott McNamara, District Attorney
County Attorney
Budget



Jurisdiction Class: Pending Jurisdictional Classification for Oneida County
Government Only
EEO Category: Professional
Adopted: 06/13/2018

LAW ASSOCIATE

DISTINGUISHING FEATURES OF THE CLASS: This is professional legal work involving responsibility for assisting in the investigation, preparation, conduct, and appeal in various court and legal proceedings involving indigent defendants. The work involves extensive research and the preparation of legal documents. Work is performed in accordance with guidelines provided by law and under direct supervision of a licensed attorney. Does related work as required.

TYPICAL WORK ACTIVITIES:

Researches legal issues and relevant precedent cases;
Drafts legal briefs and other essential documentation;
Reviews judicial transcripts;
Interviews clients;
Assists in preparing cases for hearings and trials;
Represents office in out-of-court proceedings.

FULL PERFORMANCE KNOWLEDGE, SKILLS, ABILITIES, AND PERSONAL

CHARACTERISTICS: Good knowledge of the principles and practices of applicable field of law; good knowledge of court procedures and the rules of evidence; good knowledge of legal documents and procedure; skill in performing accurate legal research; skill in the preparation of briefs and other legal documents; ability to analyze, appraise and legal principles, facts and precedents to legal problems; ability to communicate effectively, both orally and in writing; physical condition commensurate with the demands of the position.

MINIMUM QUALIFICATIONS: Eligibility for admission to the New York State Bar and for license to practice as an attorney in the State of New York.

ONEIDA COUNTY
OFFICE OF THE DISTRICT ATTORNEY

Scott D. McNamara
District Attorney

Michael A. Coluzza
First Assistant

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Maria Murad Blais
Rebecca G. Kelleher
Archana Nayak

May 4, 2018

John P. Talerico, Commissioner
Oneida County Department of Personnel
800 Park Avenue
Utica, New York 13501

Dear Mr. Talerico:

Over the years, I have sought to hire recent law school graduates who are interested in a career in criminal prosecution. I feel it is important to focus upon this demographic in our hiring practices as it allows individuals to learn about the practice of an extremely important and complicated area of the law from the ground up. It has the collateral benefit of promoting the retention of qualified young professionals within our community, rather than losing them to other places. However, in so doing, I continuously encounter the same situation when I attempt to hire someone that has recently graduated from law school. The issue is the following: qualified young applicants who would be a good fit for my office wind up going elsewhere because they cannot be sworn in as an Assistant District Attorney until their bar examination results come in and they are admitted to practice. Very often these young persons need to start working right away, rather than waiting months.

Other counties have a solution to this problem. It is very common for District Attorney's Offices throughout the state to hire candidates who have graduated from law school and have taken the bar, but are not yet sworn in as an attorney. The law provides these individuals can perform many of the functions of an Assistant District Attorney for a District Attorney's Office as long as they do so under the direct supervision of an admitted attorney. The law also requires the new hire to have been granted a work order from the Appellate Division.

Upon inquiring at the Onondaga County District Attorney's Office, I was advised that their practice is to hire such candidates under the designation "Criminal Law Associate (CLA)." Once such recent hires are actually sworn in before the bar, they are then moved into the equivalent of our position of Assistant District Attorney III.

MAY - 7 2018

John P. Talerico, Commissioner
Oneida County Department of Personnel
Page Two
May 4, 2018

I respectfully request that Oneida County create this CLA position in our county so I am able to hire similar candidates during the six month time period between taking the bar and being officially sworn in. I propose the salary for such position be \$12,000 less than the starting salary of an Assistant District Attorney III.

This measure would not result in an increase in the number of employees in the DA's office. It merely creates a track which would allow us to draw talent from a broader base of applicants. The CLA position would only be filled if there was a vacant ADA III position that needed to be filled. Once the CLA is sworn in, that person would become an ADA III, and the CLA position would remain vacant until such time as another ADA position were to become vacant.

Thank you for your time and attention on this matter.

Sincerely,



Scott D. McNamara
Oneida County District Attorney

MAY 7 2018

ONEIDA COUNTY
OFFICE OF THE DISTRICT ATTORNEY

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District Attorney

Michael A. Coluzza
First Assistant

Dawn Catera Lupi
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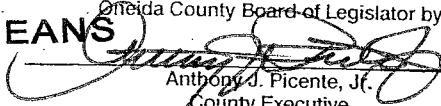
Sarah F. DeMellier
Luke C. Davignon
William J. Barry III
Kevin J. Dwyer
Stephanie N. Singe
Paul S. Kelly
Travis J. Yoxall
Maria Murad Blais
Rebecca G. Kelleher
Archana Nayak

FN 20 18-231

June 25, 2018

PUBLIC SAFETY

The Honorable Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

Reviewed and Approved for submittal to the
Oneida County Board of Legislators by
WAYS & MEANS

Anthony J. Picente, Jr.
County Executive
Date 6-28-18

Dear Mr. Picente:

By this letter, I am requesting your approval, as well as the Board of Legislators, for the following 2018 budgetary transfer within the District Attorney Law Enforcement cost center to purchase new furniture for the office:

TO:

A1162.211 Office Furnishings & Equipment \$8,000.

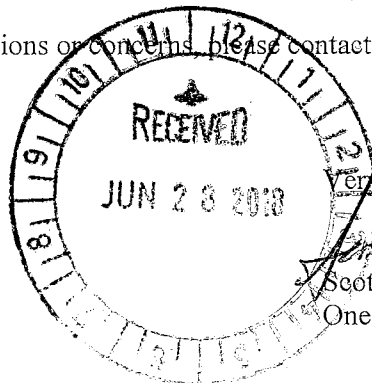
FROM:


A1162.212 Computer Hardware \$8,000.

At your earliest convenience, please submit this request to the Board of Legislators for their approval.

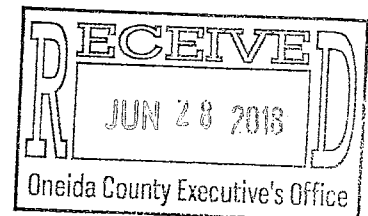
If you have any questions or concerns, please contact me.

Thank you.



Very truly yours,

Scott D. McNamara
Oneida County District Attorney

- SW
cc: Hon. Gerald J. Fiorini, Chairman
Hon. George E. Joseph, Majority Leader
Hon. Philip M. Sacco, Minority Leader
Hon. James D'Onofrio, Chairman, Ways & Means Comm.
Hon. Richard A. Flisnik, Chairman, Public Safety
Thomas Keeler, Budget Director



ONEIDA COUNTY
OFFICE OF THE DISTRICT ATTORNEY

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District Attorney

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Kevin J. Dwyer
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Rebecca G. Kelleher
Archana Nayak

June 26, 2018

The Honorable Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

FN 20 18 232

**PUBLIC SAFETY
WAYS & MEANS**

Dear Mr. Picente:

By this letter, I am requesting your approval, as well as the Board of Legislators, for the following 2018 budgetary transfer within the District Attorney Law Enforcement cost center to purchase drone accessories for the Rome Police Department:

TO:

A1162.295 Other Equipment \$3,200.

FROM:

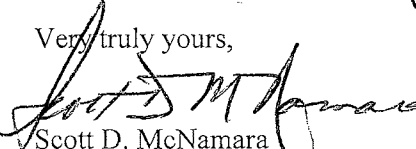
A1162.4365 Body Armor \$2,000.
A1162.491 Other Materials & Supplies \$1,200.

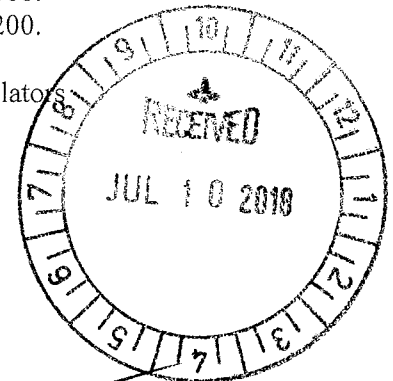
At your earliest convenience, please submit this request to the Board of Legislators for their approval.

If you have any questions or concerns, please contact me.

Thank you.

Very truly yours,

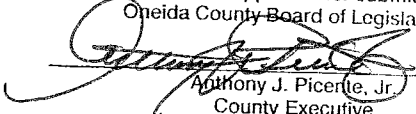

Scott D. McNamara
Oneida County District Attorney



SW

cc: Hon. Gerald J. Fiorini, Chairman
Hon. George E. Joseph, Majority Leader
Hon. Philip M. Sacco, Minority Leader
Hon. James D'Onofrio, Chairman, Ways & Means Comm.
Hon. Richard A. Flisnik, Chairman, Public Safety
Thomas Keeler, Budget Director

Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Date 7-10-18



Undersheriff Robert Swenszkowski
Chief Deputy Jonathan G. Owens

Chief Deputy Gregory Pflieger
Chief Deputy Joseph A. Lisi

Sheriff Robert M. Maciol

June 21, 2018

FN 20 18-233

The Honorable Anthony J. Picente, Jr.
Oneida County Executive
Oneida County Office Building
800 Park Avenue
Utica, New York 13501

PUBLIC SAFETY

WAYS & MEANS

Dear County Executive Picente:

The Sheriff's Office is requesting approval of an Agreement with Whitesboro Central School District for the 2018-2019 school year. This Agreement is for 14 (fourteen) part-time Special Patrol Officers (SPOs) to be utilized within the Whitesboro School District to increase law enforcement presence, to decrease the number of incidents at the district, and to ensure building safety and security measures are in place and being followed by students, staff, parents, and other visitors. The total amount of this Agreement is \$258,352.50 (\$28.50 per hour x 7 officers on duty per day x 7 hours per day x 185 school days). The District will reimburse the County for 50% of the hourly costs of the SPOs in the amount of \$129,176.25. The County will be responsible for the remaining 50% of the hourly costs (\$129,176.25) and any equipment expenses (Whitesboro had SPOs last year, so equipment/uniform expense is not anticipated) through the Community Safety Initiative.

We request that this agreement be made a template for future SPO contracts with the following school districts: Westmoreland (4 SPOs), Sauquoit Valley (4 SPOs), Clinton (2 SPOs), Holland Patent (4 SPOs), and Camden (8 SPOs).

If you find the enclosed contract acceptable, I am requesting that you forward the same to the Board of Legislators for consideration at their next meeting. I would like to thank you for your time and diligent attention to this matter in advance. If you have any questions, require clarification or seek additional information from me in order to help you make a decision regarding my request, please do not hesitate to contact me at any point in time.

Sincerely,

Robert M. Maciol
Sheriff



Reviewed and Approved for submittal to the
Oneida County Board of Legislator by

Anthony J. Picente, Jr.
Anthony J. Picente, Jr.
County Executive

Date 6-27-18

Oneida County Department/Office: Sheriff's Office

Competing Proposal:
Only Respondent:
Sole Source RFP:
Other: X (Revenue)

ONEIDA COUNTY BOARD OF LEGISLATORS

Name & Address of Vendor: Whitesboro Central School District
65 Oriskany Blvd, Suite 1
Whitesboro, NY 13492

Title of Activity or Service: Special Patrol Officer Initiative

Proposed Dates of Operation: September 1, 2018 – August 31, 2019

Client Population/Number to be Served: Members of the Whitesboro Central School District

Summary Statements

1) Narrative Description of Proposed Services: Use of Special Patrol Officers (SPOs) at the Whitesboro Central School buildings. Whitesboro will bring on fourteen (14) part-time SPOs for the 2018-2019 school year. The SPOs will ensure building safety, ensure security measures are in place and being followed by students, staff, parents, and other visitors to the buildings, and will provide a uniformed presence to deter criminal behavior on school grounds.

2) Program/Service Objectives and Outcomes: Provide for security and safety on school grounds, protect school property and maintain order in and around the school grounds, provide intervention between students and/or staff, investigate all crimes and incidents, act as mentors and give students role models to guide them toward community activities that prevent delinquency.

3) Program Design and Staffing: 14 part-time SPOs during the 2018-2019 school year.

Total Funding Requested: \$258,352.50

Account #: A2735.1 (revenue)
A3121 (expense)

Hours will be split between the 14 part-time SPOs so that 7 will be on duty during school hours. \$28.50 per hour x 7 hours per day x 7 officers staffed per day x 185 school days (\$258,352.50), plus equipment, if needed, at approximately \$3805 per officer.

Oneida County Dept. Funding Recommendation: \$258,352.50

Proposed Funding Sources (Federal \$/ State \$/County \$): Whitesboro will reimburse 50% of the costs of the SPOs (\$129,176.25). The County will pay the remaining 50% of costs of SPOs (\$129,176.25), plus costs of uniforms and equipment expenses, if needed.

Cost Per Client Served: N/A

Past Performance Data: Whitesboro has utilized SPOs in the past with excellent results.

O.C. Department Staff Comments: Whitesboro Central School will reimburse the Sheriff's Office for 50% of the cost of the part-time Special Patrol Officers (total cost \$28.50 per hour per officer, 7 officers per day, 7 total hours per day, 185 school days). The County will pay the remaining 50% for the cost of the officers.

AGREEMENT BETWEEN
ONEIDA COUNTY, through the ONEIDA COUNTY SHERIFF'S OFFICE,
and
the WHITESBORO CENTRAL SCHOOL DISTRICT

SCHOOL SPECIAL PATROL OFFICER INITIATIVE

THIS AGREEMENT, made and entered into, by and between the County of Oneida, a municipal corporation organized and existing under the laws of the State of New York, with its principal offices located at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," by and through the Oneida County Sheriff's Office, with offices located at 6065 Judd Road, Oriskany, New York 13424, hereinafter referred to as the "OCSO," and Whitesboro Central School District, a political subdivision of the State of New York, with its principal offices located at 65 Oriskany Blvd, Suite 1, Whitesboro, New York 13492, hereinafter referred to as the "District" (each individually referred as a "Party" and collectively referred to as the "Parties").

WITNESSETH

WHEREAS, the District has a need for a more intensive and coordinated approach to creating a safe and secure setting for the educational process to take place; and

WHEREAS, the District desires to engage the services of safety officers, known as Special Patrol Officers ("SPOs"), to provide a uniformed presence in the designated schools as a deterrent to criminal behavior on the school campus, and to promote a greater sense of safety and security within the school environment; and

WHEREAS, the OCSO is desirous of providing personnel to the District's Special Patrol Officer Initiative to be utilized as Special Patrol Officers at the times and places hereinafter indicated; and

WHEREAS, the County, through the OCSO, and the District agree that the Parties' goals are the following:

1. To establish a staff of part-time SPOs consisting of experienced and trained retired law enforcement officers as prescribed in NYS General Municipal Law Section 209-v, which is attached as Exhibit A- Job Specification of Special Patrol Officer and made a part hereof;
2. To increase the physical law enforcement presence within the District facilities;
3. To decrease the number of incidents involving outside police intervention at the District facilities;
4. To increase a sense of safety and order within the school setting; and

5. To ensure that the facilities' safety and security measures are in place and being followed by students, staff, and parents within the District; and

WHEREAS, the County, through the OCSO, and the District desire to set forth in this Agreement the specific terms and conditions of the services to be performed and provided by said SPOs in the District;

NOW THEREFORE, in exchange for the consideration hereinafter stated, the OCSO, the County, and the District agree as follows:

1. **Assignment of the SPOs.** The OCSO shall assign uniformed officers as SPOs to serve in the District according to a schedule established by mutual agreement between the OCSO and the District. The OCSO agrees to have SPOs on site at all District campuses each day that school is in session during the Term of this Agreement (as defined below in Section 3), as designated by the District. The OCSO will provide substitute coverage when the designated SPOs are absent. The SPOs will wear the uniforms issued by OCSO, including a firearm and all other equipment authorized and issued by the OCSO.

2. **Supervision of the SPOs.** The OCSO agrees to have supervising officers to facilitate scheduling, cover absences, and/or supply support as needed by the District on site at the designated District campuses each day that school is in session during the Term of this Agreement. The supervising SPOs will be designated by the OCSO to act in such capacity. The supervising SPOs will be under the supervision of a designated member of the OCSO Law Enforcement Division and shall coordinate his or her activities at the District with the Principal or designee.

3. **Term of Agreement.** The Term of this Agreement begins on September 1, 2018 and expires on August 31, 2019, without notice, unless terminated earlier as provided in this Agreement (the "Term").

4. **Duties of the SPOs.** The SPOs duties shall be as follows:

- a. Provide for the security and safety of all students, staff, and visitors;
- b. Protect school property and maintain order in and around the school site;
- c. Provide intervention between students and/or staff, using appropriate techniques to calm and control situations;
- d. Under the supervision of the principal or designee, investigate all crimes and incidents occurring on and in the vicinity of school grounds, and provide the appropriate documentation for such investigations;
- e. Report all violations of law, school rules, regulations, or policies to school administration;
- f. Enforce New York State laws, rules, and regulations;
- g. Act as liaisons with police and fire officials;
- h. Advise the school administration of any circumstances or situations that may create a potential for harm to persons, or damage to or loss of property;

- i. Screen all persons entering the building or school grounds when in a position to do so, and take necessary action to prohibit loitering and trespassing on school grounds;
- j. Become familiar with all hidden recesses in the building and check them periodically;
- k. Become familiar with the Student Code of Conduct, particularly with respect to prohibited items such as cell phones, iPods, wearing of hats, etc., and take required action to enforce the Code of Conduct and/or seize such prohibited items;
- l. Enforce all other provisions of the Code of Conduct;
- m. Maintain post integrity by being highly visible at all times and refraining from unnecessary fraternization with other officers/employees;
- n. Report for duty in a timely manner. In the event an SPO is absent from work, the SPO shall notify his or her supervisor. The OCSO shall then provide the District with a replacement officer. The OCSO shall notify the Superintendent of the District that the SPO will be absent and shall notify the Superintendent of the replacement SPO;
- o. Question any individual not having appropriate identification who appears to be a student to ascertain his or her status;
- p. Act as mentors to students by maintaining a casual relationship with students and attempt to develop a rapport with students;
- q. Develop a common working relationship with the staff of the District;
- r. In the performance of their duties, the SPOs shall regularly coordinate and communicate with the principal or the principal's designee of the schools to which they are assigned. The principal or designee shall contact the supervising SPO assigned by the OCSO for such purpose in the event that a question arises regarding the performance of duties by the SPOs;
- s. When requested, participate in meetings with school officials, parents, or the District School Board to assist in dispute resolution and/or in developing policy and procedures concerning school safety;
- t. The SPOs shall comply with all State and Federal laws as well as all of the rules, regulations, policies, and procedures related to investigations, interviews, and search and arrest procedures of the OCSO;
- u. The SPOs shall be subject to all other personnel policies and practices of the OCSO, except as such policies or practices that may have to be modified to comply with the terms and conditions of this Agreement;
- v. Act swiftly and cooperatively when responding to major disruptions and flagrant criminal offenses at school, including, but not limited to: disorderly conduct by trespassers, the possession and use of weapons on campus, the illegal sale and/or distribution of controlled substances, and riots; and
- w. Meet all of the obligations above without discriminating on the basis of race, color, sex, national origin, or membership in any other protected class.

5. **Responsibilities of the OCSO.** The OCSO, in its sole discretion, shall have the power and authority to hire, discharge, and discipline all SPOs. It is understood by all Parties herein that the OCSO will retain tactical control of all of the SPOs. Officers shall relinquish all criminal law

enforcement actions and investigations, including, but not limited to, interviews, searches, arrests, and discovery of controlled substances to the Law Enforcement Division of the OCSO.

The OCSO further agrees as follows:

- a. To provide SPOs who:
 - i. Meet the requirements as prescribed in NYS General Municipal Law Section 209-v;
 - ii. Shall possess sufficient knowledge of the applicable Federal and State laws, Town and County ordinances, and Board of Education policies and regulations;
 - iii. Demonstrate a broad base of knowledge regarding youth, social issues, and the criminal justice system;
 - iv. Meet all education and experience requirements set forth by Oneida County and New York State; and
 - v. Also demonstrate:
 - A. Effective verbal and written communication skills, including the ability to address public audiences in the school, business, and community settings;
 - B. An ability to relate to youth, especially the “at risk” and “special needs” populations;
 - C. A working knowledge of social services providers and other community justice and school resources;
 - D. An ability to identify, analyze and recommend solutions to complex behavioral and social problems;
 - E. A genuine interest in at-risk youth; and
 - F. An even temperament and the ability to set a good example for students.
- b. The District may request from the OCSO that certain individuals not be assigned to the District if it is determined by the District that the SPO does not meet the qualifications as listed above. The OCSO will honor these requests to the fullest extent possible.
- c. OCSO will ensure the SPOs appropriately cover the District’s facilities in accordance with a schedule agreed to by the OCSO and the District.
- d. OCSO will ensure the SPOs submit appropriate verification forms to be signed by authorized school personnel to provide audit documentation of time spent on campus.
- e. OCSO will ensure the SPOs regularly submit vouchers to the District for services rendered.
- f. OCSO will cooperate with the District to implement the SPOs program with the least possible disruption to the educational process.

6. **District’s Responsibilities.** The District agrees to:

- a. Implement the SPO program in accordance with guidelines established herein by the Parties;

- b. Designate an employee as the school representative, through which day-to-day business contact will be conducted with the SPOs;
- c. Provide the SPOs with full access to school facilities, personnel, and students;
- d. Ensure that school personnel, school board members, students, and parents are informed of the duties and presence of the SPOs on campus;
- e. Make available a suitable location for the SPOs to take breaks and have a midday meal;
- f. Provide suitable accommodations (i.e., desk and chair) at the main entrance of each school building so that the SPOs may be periodically seated during the school day;
- g. Evaluate the program and administer an annual assessment of the program;
- h. Make recommendations and program adjustments as appropriate;
- i. Reporting of Crimes: If District personnel uncover evidence that a crime may have been committed, as defined in applicable statutes, District policy, or regulations, or as determined by the school principal or designee, a school official shall notify the SPOs. In the event of an emergency or the absence of the SPOs, the District shall be responsible for dialing 911 for police. Once notified of the occurrence of a crime, the SPOs will complete the applicable reports in conformance with OCSO rules, regulations, policy, and procedures. The SPOs shall also complete any applicable report in conformance with the District's policy, regulations, or applicable Education Law provisions. When appropriate, or in the event of a serious crime, the SPOs will notify the appropriate OSCO supervisory personnel and request their services for a police response.

7. Confidentiality and Disclosure of Records.

- a. Confidentiality. The County, OCSO, and the District agree that all information exchanged is considered confidential and subject to provisions of Federal and New York State Law, and will be used only for the purposes outlined in this Agreement.
- b. Records Disclosure. The County, OCSO, and the District agree to comply with the requirements set forth in the Family Education Rights to Privacy Act (FERPA), New York State Education Law Section 2-d, as well as any regulations promulgated under those laws, as the same may be amended from time-to-time. Attached hereto and made a part of this Agreement in Addenda A-2 are the terms required by New York State Education Law Section 2-d concerning the disclosure of protected identifiable student, principal, and teacher information from disclosure.
- c. HIV-Related Information.
 - i. Non Discrimination. The County, OCSO, and the assigned SPOs and any substitute SPOs shall not discriminate or refuse assistance to individuals with AIDS or HIV infection. It is agreed that the Sheriff, and any member of his staff with whom confidential HIV-related information may be given as a necessity for providing services, in accordance with Part 403.9 of Title 18 NYSDSS regulations and Section 2782 of NYS Public Health

Law, are fully informed of the penalties and fines for disclosure in violations of State Law and Regulations.

- ii. Re-disclosure. The following written statement must be included when disclosing any confidential HIV-related information:

“This information has been disclosed to you from confidential records which are protected by State Law. State Law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State Law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure.”

- d. Child Abuse, Neglect, and Maltreatment. Notwithstanding any other provision of this Agreement, the OCSO shall comply with all New York State laws, rules, and regulations governing Child Abuse, Neglect, and Maltreatment.
- e. The Parties agree that all records must be available for a period of years that is in compliance with Records Retention and Disposition Schedule ED-1, and must be made available for audit by the New York State Department of Education and New York State Audit and Control upon request. Records related to student discipline must be kept for a minimum of three (3) years after the student reaches the age of eighteen (18).

8. Requirements of New York State Education Law Section 2-d.

- a. The purposes of this Agreement may require the disclosure of certain personally identifiable student information (hereinafter referred to as “PII”), as defined by Education Law Section 2-d (1), (d) and (j). Accordingly, it is anticipated that this Agreement will involve disclosure of such data to the SPOs. The exclusive purpose for which the referenced PII will be used is the delivery of SPO services provided under the Agreement. Upon expiration of this Agreement, the SPOs and/or substitute SPOs must securely destroy or return all PII to the District that remains in the SPOs’ or substitute SPOs’ possession.
- b. If PII is disclosed to the SPOs and/or substitute SPOs by the District for purposes of the SPOs providing services to the District, the SPOs and County must additionally comply with the following express requirements of New York State Education Law Section 2-d(5), (e) & (f) (Chapter 56, Subpart L of the Laws of 2014), as well as any implementing regulations and/or any data privacy policy adopted by the District:
 - i. Any officers or employees of the third party contractor and its assignees who have access to student data or teacher or principal data have received or will receive training on Federal and State law governing confidentiality of such data prior to receiving access;
 - ii. Limit internal access to education records to those individuals that are determined to have legitimate educational interests;
 - iii. Not use the education records for any other purposes than those explicitly authorized in this Agreement;

- iv. Except for authorized representatives of the third party contractor to the extent they are carrying out the Agreement, not disclose any PII to any other party:
 - A. Without prior written consent of the parent or eligible student; or
 - B. Unless required by statute or court order and the party provides a notice of the disclosure to the County, District Board of Education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
- v. Maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of personally identifiable student information in its custody; and
- vi. Use encryption to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the Secretary of the United States Department of Health and Human Services in guidance issued under Section 13402(H)(2) of Public Law 111-5.
- c. The Parents' Bill of Rights and the attachment to the Parents' Bill of Rights are annexed to this Agreement as Addenda A-1 and A-2, respectively, the terms of which are incorporated herein by reference.

9. Resolution of Issues/Termination.

- a. In case of deficiencies of service or other SPO programmatic issues, the District will first develop an Action Plan in concert with the OCSO to address the issues. In the event that the issues cannot be resolved through the Action Plan, the District reserves the right to terminate services and this Agreement with a thirty (30) day notice.
- b. If issues occur that cause the OCSO to feel termination of this Agreement is appropriate, the OCSO must first address the issues in writing to the District. A subsequent meeting will be held and an Action Plan developed to resolve the issue. In the event that the issues cannot be resolved through these steps, the OCSO reserves the right to terminate services and this Agreement upon thirty (30) days written notice.
- c. The Parties will use their best efforts to resolve any disputes between them concerning performance or administrative issues by negotiation and agreement. The exclusive means of disposing of any dispute arising under a contract with the District which is not resolved by agreement shall be by a New York State Court of competent jurisdiction located within Oneida County, New York. There shall be no right to binding arbitration. Pending final resolution of a dispute, the OCSO must proceed diligently with contract performance. Each Party waives any dispute or claim not made in writing and received by the other Parties within thirty (30) days of the occurrence giving rise to the dispute or claim. The claim must be in writing, for a sum certain, and must be fully supported by all cost and pricing information.

10. Compensation.

- a. Basic Payment. The County agrees to provide and to pay the SPO's hourly rate and employment benefits in accordance with the applicable salary schedules and employment practices of the County, subject to reimbursement by the District as detailed herein.
- b. The Parties agree that the District shall pay to the OCSO fifty percent (50%) of costs incurred by the OCSO during the Term of this Agreement in compensation to the SPOs for all hours worked, to include payroll taxes and all other associated costs, such as, but no limited to, Disability Insurance and Workers' Compensation Insurance. The District also agrees to pay the County for fifty percent (50%) of hours spent by the SPOs undergoing mandatory training to maintain eligibility as SPOs.
- c. The rate of pay and fringe of SPOs is paid at an hourly rate of Twenty-Eight Dollars and Fifty Cents (\$28.50). The County shall provide the District with notice of any new rates of pay and/or fringe benefits within ten (10) days of a change in pay rates by resolution of the County Board of Legislators. The new pay rates shall become effective upon the date specified by resolution of the County Board of Legislators. The estimated pay rates for compensation under this Agreement shall be adjusted, and the actual pay rates reconciled with payments made as of the effective date of the pay rate change, and the Parties acknowledge that any future resolution of the County Board of Legislators changing the pay rates could include retroactive increases to the pay rates for which the District will be responsible. In the event that such reconciliation results in a credit to the District, it shall be applied to offset subsequent payments due, and if such adjustment results in an amount due the County, it shall be included in the next payment.
- d. Any time spent by SPOs that is not related to the interests of the District will not be charged to the District.
- e. Incidental and Unrelated Costs. Incidental costs, to include uniforms, equipment, pager, vehicle, and ongoing training costs shall be covered by the County. Any time spent by the SPOs that is not related to the interest of the District will not be considered time worked as SPOs or reimbursed by the District. Any expenses or financial obligations made by SPOs without the prior approval of the District will not become the responsibility of the District.
- f. Additional Hours. Any time spent at the District over and above the hours agreed upon per day by the Parties will be billed as overtime, at the rate contained in the Collective Bargaining Agreement in force at the time, subject to prior approval by the Principal or designee.
- g. Billing & Payment. The OCSO shall submit a statement for payment of the contract fee to the District on a bi-weekly basis, to correspond with the schedule under which employees of the OCSO submit proof of their hours worked to the OCSO. The

District shall reimburse the County the sum due in each statement within seven (7) days of receipt of the same.

11. **Independent Contractors.** It is expressly understood and agreed that the legal status of the OCSO and its officers and employees, vis-à-vis the District under this Agreement, is that of an independent contractor, and in no manner shall the SPOs be deemed employees of the District. Neither Party shall be an agent of or otherwise have authority to bind the other Party. The County agrees, during the Term of this Agreement, to maintain at its expense those benefits to which the SPOs, as its employees, would otherwise be entitled by law, including health benefits, and all necessary insurances for its employees, including workers' compensation, disability, and unemployment insurance, and to provide the District with certification of such insurance upon request. The County remains responsible for all applicable Federal, State, and Local taxes, and all FICA contributions.

12. **Indemnification & Insurance.**

- a. The District agrees to indemnify, save, and hold harmless the County, their agents, officers, servants, employees, and subcontractors from any claims, demands, causes of action, and/or judgments arising out of injury to person or property of whatever kind or nature caused by the negligence, willful misconduct, or any acts or failure to act on the part of the District, its agents, servants, employees or subcontractors in connection with the performance of this Agreement, and to defend at its own cost, such action or proceeding.
- b. The County agrees to indemnify, save, and hold harmless the District, its agents, officers, servants, employees, and subcontractors from any claims, demands, causes of action, and/or judgments arising out of injuries to person or property of whatever kind or nature caused by the negligence, willful misconduct, or any act or failure to act on the part of the County and/or the Sheriff, its agents, servants, employees, or subcontractors in connection with the performance of this Agreement, and to defend at their own cost, such action or proceeding.
- c. The District agrees that it will, at its own expense, at all times during the Term of this Agreement, maintain in force a policy of insurance which will insure against liability for property damage and/or injury or death with regard to any property or persons. The District shall purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A. M. Best.
 - i. Commercial General Liability (CGL) coverage with limits of insurance of not less than \$1,000,000 each occurrence and \$3,000,000 Annual Aggregate.
 - ii. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products-completed operations, and personal and advertising injury.
 - iii. The County shall be included as additional insureds. Coverage for the additional insureds shall apply as Primary and Non-contributing Insurance

- before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by, or provided to, the additional insureds.
- iv. Workers Compensation and Employers Liability
 - A. Statutory limits apply.
 - v. Waiver of Subrogation: The District waives all rights against the County, its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by Commercial General Liability or Workers Compensation and Employers Liability insurance maintained per requirements stated above.
 - vi. Certificates of Insurance: Prior to the start of any work, the District shall provide certificates of insurance to County. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the District's Commercial General Liability Policy. These certificates and the insurance policies required above shall contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the County.
- d. The County agrees that it will, at its own expense, at all times during the Term of this Agreement, maintain in force a policy of insurance which will insure against liability for property damage and/or injury or death with regard to any property or persons. The County shall purchase and maintain insurance of the following types of coverage and limits of liability.
- i. Commercial General Liability (CGL) coverage with limits of Insurance of not less than \$1,000,000 each occurrence and \$3,000,000 Annual Aggregate.
 - ii. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products-completed operations, and personal and advertising injury.
 - iii. The District shall be included as additional insured. Coverage for the additional insured shall apply as Primary and Non-contributing Insurance before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by, or provided to, the additional insureds.
 - iv. Workers Compensation and Employers Liability
 - A. Statutory limits apply.
 - v. Waiver of Subrogation: The County waives all rights against the District, and their agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by Commercial General Liability or Workers Compensation and Employers Liability insurance maintained per requirements stated above.
 - vi. Certificates of Insurance: Prior to the start of any work the County shall provide certificates of insurance to District. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the County's Commercial General Liability Policy. These

certificates and the insurance policies required above shall contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the District.

13. **No Special Duty.** Nothing in this Agreement shall create a special duty to the District or to any third party, including but not limited to employees and students of the District. The OCSO cannot promise or guarantee crime prevention, safety, or security.

14. **Suspension of Work.**

- a. The District, in its sole discretion, reserves the right to suspend any or all activities under this Agreement at any time if deemed to be in the best interest of the District. In the event of such suspension, the OCSO will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze on contractor spending, an uncontrollable event, a declaration of emergency, or other such circumstances. Upon issuance of such notice, the OCSO shall comply with the suspension order. Activity may resume at such time as the District issues a written notice authorizing a resumption of work.
- b. Should funds become unavailable or should appropriate governing bodies fail to approve sufficient funds for completion of services or programs set forth in this Agreement, the District and/or the County shall have the option to immediately terminate this Agreement upon providing written notice to the other Party. In such an event, the District shall be under no further obligation to the County other than payment for costs actually incurred prior to termination, and in no event will the OCSO be responsible for further performance of any duties on behalf of the District or for any actual or consequential damages as a result of termination.
- c. The District and the OCSO agree that this Agreement may be terminated upon thirty (30) days written notice to the other Party at said Party's designated address, for reason other than the funding issues described herein. In case of termination of said Agreement, the District will be provided with all documents, notes, memoranda and reports (if any) with respect to the SPOs' services up to the effective termination date of the Agreement.
- d. Neither Party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or an uncontrollable event. The Parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under this Agreement.

15. **Notice.** All notices to the County should be sent to:

Oneida County- Law Department
800 Park Avenue
Utica, New York 13501

With a copy sent to OCSO at:

Oneida County Sheriff's Office
6065 Judd Road
Oriskany, New York 13424

All notices to the District should be sent to:

Whitesboro Central School District
65 Oriskany Blvd., Suite 1
Whitesboro, New York 13492

16. **Expiration.** The Parties agree that this Agreement expires on August 31, 2019, without notice. Any renewal of said Agreement shall require execution of a subsequent Agreement by all Parties and approval of the appropriate governing bodies where required.

17. **Advice of Counsel.** Each Party acknowledges that, in executing this Agreement, such Party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Agreement.

18. **Assignment.** No Party may assign this Agreement, or any part hereof, or any rights hereunder, without the written advance consent of all Parties.

19. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, exclusive of its choice of laws, rules, and principles. The Parties agree that any legal action shall be filed in a court of competent jurisdiction in Oneida County, New York.

20. **Severability.** In the event that a portion of this Agreement is found illegal, invalid, contrary to public policy, or unenforceable by a court of competent jurisdiction, then the surviving remainder of the Agreement shall continue in full force and effect.

21. **Entire Agreement.** The Parties agree that this Agreement and any addenda attached and incorporated into this Agreement, whether or not physically attached, represent the entire agreement between them. Any amendments to this Agreement shall require the written consent of all Parties. By signing below, the Parties agree and acknowledge that they have read, understood and agreed to all the terms contained in any addenda attached hereto, including, but not limited to, Addenda A-1 (Parents' Bill of Rights), Addenda A-2 (Attachment to The Parents' Bill of Rights), Exhibit A (Job Specification of Special Patrol Officer), and Exhibit B (Standard Oneida County Conditions). This Agreement shall be binding upon both Parties when fully signed and executed and upon approval of the appropriate governing bodies.

*[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE TO FOLLOW]*

IN WITNESS WHEREOF, the County, the OCSO, and the District have caused this Agreement to be executed as of the date below.

For Oneida County

Anthony J. Picente, Jr.
County Executive

Date

For the Oneida County Sheriff's Office

Robert M. Maciol
Oneida County Sheriff

Date

For Whitesboro Central School District

Michael Head
President, Board of Education

Date

Approved

Alison Stanulevich
Assistant County Attorney

EXHIBIT A

Civil Division: Oneida County Government
Jurisdictional Class: Competitive
EEO Category: Protective Service: Sworn
Revised: 09/10/15

SPECIAL PATROL OFFICER

DISTINGUISHING FEATURES OF THE CLASS: The work involves responsibility for maintaining order and providing security for publicly owned property. Persons employed in this class shall have all the powers of a peace officer, as set forth in section 2.20 of Criminal Procedure Law, when performing the duties of protecting property or persons on such premises. The work is performed under general supervision of the Oneida County District Attorney, Oneida County Sheriff's Office, or other designated Oneida County law enforcement agent. The incumbent performs related work as required.

TYPICAL WORK ACTIVITIES: (Illustrative Only)

Provides security by standing in and patrolling public buildings;
Protects and guards the public and employees in the designated publicly-owned property;
Physically restrains unruly individuals;
Escorts law enforcement agents, juries and witnesses to and from the courtroom;
Provides general information to visitors on premises ;
Checks to insure that all necessary documents and identifications are in order;
Safeguards public property;
Provides assistance in emergency situations;
Maintains and updates records as required;
Prepares incident reports;
Distributes and posts appropriate documents and materials.

FULL PERFORMANCE KNOWLEDGE, SKILLS, ABILITIES AND PERSONAL CHARACTERISTICS: Good knowledge of procedures and practices for protecting and safeguarding buildings and property; good knowledge of the powers of a peace officer; ability to maintain order; ability to perform first aid; ability to exercise judgment and common sense in stressful situations; ability to carry out established security procedures in case of fire, bomb threat or other emergency situations; ability to observe detail, remember facts and information and evaluate situations; ability to understand oral and written instructions and apply information, rules, regulations and procedures to specific situations; ability to prepare brief written communications; ability to communicate information orally to the public or related personnel; ability to use self-defense, restraint techniques and security equipment.

continued...

SPECIAL PATROL OFFICER

page two

MINIMUM QUALIFICATIONS: Retired member of a police or sheriff's department, or division of state police, or retired former corrections, parole or probation officer.

NOTE: In accordance with Section 209-v of General Municipal Law, a retiree who had permanent competitive class status in one of the above listed occupations may be reinstated to a Special Patrol Officer position without further examination.

SPECIAL REQUIREMENTS TO CARRY OR POSSESS FIREARMS: Special Patrol Offices may not carry or possess firearms while on duty unless authorized to do so by the Appointing Authority and a license has been issued pursuant to Section 400.00 of Penal Law (Section 2.10.37 of Criminal Procedure Law). Where possession of the license is required, eligibility for and continued possession of the license is required for appointment.

Adopted: 06/13/12

Revised: 06/29/12, 09/10/15

EXHIBIT B - STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.

- ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
 - ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
- i. The Contractor will or will continue to provide a drug-free workplace by:

- A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- B. Establishing an ongoing drug-free awareness program to inform employees about:
- 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction.
- Employers of convicted employees must provide notice, including position and title, to:
- Director, Grants Management Bureau, State Office Building
Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
- F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

- 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- 2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

- ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:

- i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
 - i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
 - ii. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
 - i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
 - ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
 - iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
 - iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
 - v. Make available protected health information in accordance with 45 CFR §164.524;

- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
 - vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
 - viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKER'S COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.
- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect

to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:

- i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, "e-cigarette" shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, "on Oneida County property" shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ADDENDA A-1

Rev. 7-29-14

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

To satisfy their responsibilities regarding the provision of education to students in pre-kindergarten through grade twelve, "educational agencies" (as defined below) in the State of New York collect and maintain certain personally identifiable information from the education records of their students. As part of the Common Core Implementation Reform Act, Education Law §2-d requires that each educational agency in the State of New York must develop a Parents' Bill of Rights for Data Privacy and Security (Parents' Bill of Rights). The Parents' Bill of Rights must be published on the website of each educational agency, and must be included with every contract the educational agency enters into with a "third party contractor" (as defined below) where the third party contractor receives student data, or certain protected teacher/principal data related to Annual Professional Performance Reviews that is designated as confidential pursuant to Education Law §3012-c ("APPR data").

The purpose of the Parents' Bill of Rights is to inform parents (which also include legal guardians or persons in parental relation to a student, but generally not the parents of a student who is age eighteen or over) of the legal requirements regarding privacy, security and use of student data. In addition to the federal Family Educational Rights and Privacy Act (FERPA), Education Law §2-d provides important new protections for student data, and new remedies for breaches of the responsibility to maintain the security and confidentiality of such data.

A. What are the essential parents' rights under the Family Educational Rights and Privacy Act (FERPA) relating to personally identifiable information in their child's student records?

The rights of parents under FERPA are summarized in the Model Notification of Rights prepared by the United States Department of Education for use by schools in providing annual notification of rights to parents. It can be accessed at <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/lea-officials.html>, and a copy is attached to this Parents' Bill of Rights. Complete student records are maintained by schools and school districts, and not at the New York State Education Department (NYSED). Further, NYSED would need to establish and implement a means to verify a parent's identity and right of access to records before processing a request for records to the school or school district. Therefore, requests to access student records will be most efficiently managed at the school or school district level.

Parents' rights under FERPA include:

1. The right to inspect and review the student's education records within 45 days after the day the school or school district receives a request for access.
2. The right to request amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA. Complete student records are maintained by schools and school districts and not at NYSED, which is the secondary repository of

data, and NYSED make amendments to school or school district records. Schools and school districts are in the best position to make corrections to students' education records.

3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent (including but not limited to disclosure under specified conditions to: (i) school officials within the school or school district with legitimate educational interests; (ii) officials of another school for purposes of enrollment or transfer; (iii) third party contractors providing services to, or performing functions for an educational agency; (iv) authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as NYSED; (v) organizations conducting studies for or on behalf of educational agencies) and (vi) the public where the school or school district has designated certain student data as "directory information" (described below). The attached FERPA Model Notification of Rights more fully describes the exceptions to the consent requirement under FERPA).
4. Where a school or school district has a policy of releasing "directory information" from student records, the parent has a right to refuse to let the school or school district designate any all of such information as directory information. Directory information, as defined in federal regulations, includes: the student's name, address, telephone number, email address, photograph, date and place of birth, major field of study, grade level, enrollment status, dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received and the most recent educational agency or institution attended. Where disclosure without consent is otherwise authorized under FERPA, however, a parent's refusal to permit disclosure of directory information does not prevent disclosure pursuant to such separate authorization.
5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the School to comply with the requirements of FERPA.

B. What are parents' rights under the Personal Privacy Protection Law (PPPL), Article 6-A of the Public Officers Law relating to records held by State agencies?

The PPPL (Public Officers Law §§91-99) applies to all records of State agencies and is not specific to student records or to parents. It does not apply to school districts or other local educational agencies. It imposes duties on State agencies to have procedures in place to protect from disclosure of "personal information," defined as information which because of a name, number, symbol, mark or other identifier, can be used to identify a "data subject" (in this case the student or the student's parent). Like FERPA, the PPPL confers a right on the data subject (student or the student's parent) to access to State agency records relating to them and requires State agencies to have procedures for correction or amendment of records.

A more detailed description of the PPPL is available from the Committee on Open Government of the New York Department of State. Guidance on what you should know about the PPPL can be accessed at <http://www.dos.ny.gov/coog/shldno1.html>. The Committee on Open Government's address is Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Avenue, suite 650, Albany, NY 12231, their email address is coog@dos.ny.gov, and their telephone number is (518) 474-2518.

C. Parents' Rights Under Education Law §2-d relating to Unauthorized Release of Personally Identifiable Information

1. What "educational agencies" are included in the requirements of Education Law §2-d?

- The New York State Education Department ("NYSED");
- Each public school district;
- Each Board of Cooperative Educational Services or BOCES; and
- All schools that are:
 - a public elementary or secondary school;
 - a universal pre-kindergarten program authorized pursuant to Education Law §3602-e;
 - an approved provider of preschool special education services;
 - any other publicly funded pre-kindergarten program;
 - a school serving children in a special act school district as defined in Education Law 4001; or
 - certain schools for the education of students with disabilities - an approved private school, a state-supported school subject to the provisions of Education Law Article 85, or a state-operated school subject to Education Law Article 87 or 88.

2. What kind of student data is subject to the confidentiality and security requirements of Education Law §2-d?

The law applies to personally identifiable information contained in student records of an educational agency listed above. The term "student" refers to any person attending or seeking to enroll in an educational agency, and the term "personally identifiable information" ("PII") uses the definition provided in FERPA. Under FERPA, personally identifiable information or PII includes, but is not limited to:

- (a) The student's name;
- (b) The name of the student's parent or other family members;
- (c) The address of the student or student's family;
- (d) A personal identifier, such as the student's social security number, student number, or biometric record;
- (e) Other indirect identifiers, such as the student's date of birth, place of birth, and Mother's Maiden Name¹;

¹ Please note that NYSED does not collect certain information defined in FERPA, such as students' social security numbers, biometric records, mother's maiden name (unless used as the mother's legal name).

(f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or

(g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

3. What kind of student data is *not* subject to the confidentiality and security requirements of Education Law §2-d?

The confidentiality and privacy provisions of Education Law §2-d and FERPA extend only to PII, and not to student data that is not personally identifiable. Therefore, de-identified data (e.g., data regarding students that uses random identifiers), aggregated data (e.g., data reported at the school district level) or anonymized data that could not be used to identify a particular student is not considered to be PII and is not within the purview of Education Law §2-d or within the scope of this Parents' Bill of Rights.

4. What are my rights under Education Law § 2-d as a parent regarding my student's PII?

Education Law §2-d ensures that, in addition to all of the protections and rights of parents under the federal FERPA law, certain rights will also be provided under the Education Law. These rights include, but are not limited to, the following elements:

(A) A student's PII cannot be sold or released by the educational agency for any commercial or marketing purposes.

o PII may be used for purposes of a contract that provides payment to a vendor for providing services to an educational agency as permitted by law.

o However, sale of PII to a third party solely for commercial purposes or receipt of payment by an educational agency, or disclosure of PII that is not related to a service being provided to the educational agency, is strictly prohibited.

(B) Parents have the right to inspect and review the complete contents of their child's education record including any student data stored or maintained by an educational agency.

o This right of inspection is consistent with the requirements of FERPA. In addition to the right of inspection of the educational record, Education Law §2-d provides a specific right for parents to inspect or receive copies of any data in the student's educational record.

o NYSED will develop policies for annual notification by educational agencies to parents regarding the right to request student data. Such policies will specify a reasonable time for the educational agency to comply with such requests.

- o The policies will also require security measures when providing student data to parents, to ensure that only authorized individuals receive such data. A parent may be asked for information or verifications reasonably necessary to ensure that he or she is in fact the student's parent and is authorized to receive such information pursuant to law.
- (C) State and federal laws protect the confidentiality of PII, and safeguards associated with industry standards and best practices, including, but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.

Education Law §2-d also specifically provides certain limitations on the collection of data by educational agencies, including, but not limited to:

- (A) A mandate that, except as otherwise specifically authorized by law, NYSED shall only collect PII relating to an educational purpose;
- (B) NYSED may only require districts to submit PII, including data on disability status and student suspensions, where such release is required by law or otherwise authorized under FERPA and/or the New York State Personal Privacy Law; and
- (C) Except as required by law or in the case of educational enrollment data, school districts shall not report to NYSED student data regarding juvenile delinquency records, criminal records, medical and health records or student biometric information.
- (D) Parents may access the NYSED Student Data Elements List, a complete list of all student data elements collected by NYSED, at <http://www.p12.nysed.gov/lrs/slrs/documentation/NYSEDstudentData.xlsx>, or may obtain a copy of this list by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, NY 12234; and
- (E) Parents have the right to file complaints with an educational agency about possible breaches of student data by that educational agency's third party contractors or their employees, officers, or assignees, or with NYSED. Complaints to NYSED should be directed in writing to the Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany NY 12234, email to CPO@mail.nysed.gov. The complaint process is under development and will be established through regulations to be proposed by NYSED's Chief Privacy Officer, who has not yet been appointed.
- o Specifically, the Commissioner of Education, after consultation with the Chief Privacy Officer, will promulgate regulations establishing procedures for the submission of complaints from parents, classroom teachers or building principals, or other staff of an educational agency, making allegations of improper disclosure of student data and/or teacher or principal APPR data by a third party contractor or its officers, employees or assignees.

- o When appointed, the Chief Privacy Officer of NYSED will also provide a procedure within NYSED whereby parents, students, teachers, superintendents, school board members, principals, and other persons or entities may request information pertaining to student data or teacher or principal APPR data in a timely and efficient manner.

5. Must additional elements be included in the Parents' Bill of Rights.?

Yes. For purposes of further ensuring confidentiality and security of student data, as an appendix to the Parents' Bill of Rights each contract an educational agency enters into with a third party contractor shall include the following supplemental information:

- (A) the exclusive purposes for which the student data, or teacher or principal data, will be used;
- (B) how the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;
- (C) when the agreement with the third party contractor expires and what happens to the student data or teacher or principal data upon expiration of the agreement;
- (D) if and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and
- (E) where the student data or teacher or principal data will be stored (described in such a manner as to protect data security), and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.
 - a. In addition, the Chief Privacy Officer, with input from parents and other education and expert stakeholders, is required to develop additional elements of the Parents' Bill of Rights to be prescribed in Regulations of the Commissioner.

6. What protections are required to be in place if an educational agency contracts with a third party contractor to provide services, and the contract requires the disclosure of PII to the third party contractor?

Education Law §2-d provides very specific protections for contracts with "third party contractors", defined as any person or entity, other than an educational agency, that receives student data or teacher or principal data from an educational agency pursuant to a contract or other written agreement for purposes of providing services to such educational agency. The term "third party contractor" also includes an educational partnership organization that receives student and/or teacher or principal APPR data from a school district to carry out its responsibilities pursuant to Education Law §211-e, and a not-for-profit corporation or other non-profit organization, which are not themselves covered by the definition of an "educational agency."

Services of a third party contractor covered under Education Law §2-d include, but not limited to, data management or storage services, conducting studies for or on behalf of the educational agency, or audit or evaluation of publicly funded programs.

When an educational agency enters into a contract with a third party contractor, under which the third party contractor will receive student data, the contract or agreement must include a data security and privacy plan that outlines how all state, federal, and local data security and privacy contract requirements will be implemented over the life of the contract, consistent with the educational agency's policy on data security and privacy. However, the standards for an educational agency's policy on data security and privacy must be prescribed in Regulations of the Commissioner that have not yet been promulgated. A signed copy of the Parents' Bill of Rights must be included, as well as a requirement that any officers or employees of the third party contractor and its assignees who have access to student data or teacher or principal data have received or will receive training on the federal and state law governing confidentiality of such data prior to receiving access.

Each third party contractor that enters into a contract or other written agreement with an educational agency under which the third party contractor will receive student data or teacher or principal data shall:

- limit internal access to education records to those individuals that are determined to have legitimate educational interests
- not use the education records for any other purposes than those explicitly authorized in its contract;
- except for authorized representatives of the third party contractor to the extent they are carrying out the contract, not disclose any PII to any other party (i) without the prior written consent of the parent or eligible student; or (ii) unless required by statute or court order and the party provides a notice of the disclosure to NYSED, district board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
- maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of PII in its custody; and
- use encryption technology to protect data while in motion or in its custody from unauthorized disclosure.

7. What steps can and must be taken in the event of a breach of confidentiality or security?

Upon receipt of a complaint or other information indicating that a third party contractor may have improperly disclosed student data, or teacher or principal APPR data, NYSED's Chief Privacy Officer is authorized to investigate, visit, examine and inspect the third party contractor's facilities and records and obtain documentation from, or require the testimony of,

any party relating to the alleged improper disclosure of student data or teacher or principal APPR data.

Where there is a breach and unauthorized release of PII by a by a third party contractor or its assignees (e.g., a subcontractor): (i) the third party contractor must notify the educational agency of the breach in the most expedient way possible and without unreasonable delay; (ii) the educational agency must notify the parent in the most expedient way possible and without unreasonable delay; and (iii) the third party contractor may be subject to certain penalties including, but not limited to, a monetary fine; mandatory training regarding federal and state law governing the confidentiality of student data, or teacher or principal APPR data; and preclusion from accessing any student data, or teacher or principal APPR data, from an educational agency for a fixed period up to five years.

8. Data Security and Privacy Standards

Upon appointment, NYSED's Chief Privacy Officer will be required to develop, with input from experts, standards for educational agency data security and privacy policies. The Commissioner will then promulgate regulations implementing these data security and privacy standards.

9. No Private Right of Action

Please note that Education Law §2-d explicitly states that it does not create a private right of action against NYSED or any other educational agency, such as a school, school district or BOCES.

ADDENDA A-2

Rev. 7-29-14

ATTACHMENT

Model Notification of Rights under FERPA for Elementary and Secondary Schools

The Family Educational Rights and Privacy Act (FERPA) affords parents and students who are 18 years of age or older ("eligible students") certain rights with respect to the student's education records. These rights are:

1. The right to inspect and review the student's education records within 45 days after the day the [Name of school ("School")] receives a request for access.

Parents or eligible students should submit to the school principal [or appropriate school official] a written request that identifies the records they wish to inspect. The school official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

Parents or eligible students who wish to ask the [School] to amend a record should write the school principal [or appropriate school official], clearly identify the part of the record they want changed, and specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the school as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer or contractor outside of the school who performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official has a legitimate educational

interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

[Optional] Upon request, the school discloses education records without consent to officials of another school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer. [NOTE: FERPA requires a school district to make a reasonable attempt to notify the parent or student of the records request unless it states in its annual notification that it intends to forward records on request.]

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the [School] to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

[NOTE: In addition, a school may want to include its directory information public notice, as required by §99.37 of the regulations, with its annual notification of rights under FERPA.]

[Optional] See the list below of the disclosures that elementary and secondary schools may make without consent.

FERPA permits the disclosure of PII from students' education records, without consent of the parent or eligible student, if the disclosure meets certain conditions found in §99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, §99.32 of the FERPA regulations requires the school to record the disclosure. Parents and eligible students have a right to inspect and review the record of disclosures. A school may disclose PII from the education records of a student without obtaining prior written consent of the parents or the eligible student –

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in §99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(2) are met. (§99.31(a)(1))
- To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of §99.34. (§99.31(a)(2))
- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities,

such as the State educational agency in the parent or eligible student's State (SEA). Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf. (§§99.31(a)(3) and 99.35)

- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§99.31(a)(4))
- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to §99.38. (§99.31(a)(5))
- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction. (§99.31(a)(6))
- To accrediting organizations to carry out their accrediting functions. (§99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena. (§99.31(a)(9))
- To appropriate officials in connection with a health or safety emergency, subject to §99.36. (§99.31(a)(10))
- Information the school has designated as "directory information" under §99.37. (§99.31(a)(11))



Undersheriff Robert Swenszkowski
Chief Deputy Jonathan G. Owens

Chief Deputy Gregory Pflieger
Chief Deputy Joseph Lisi

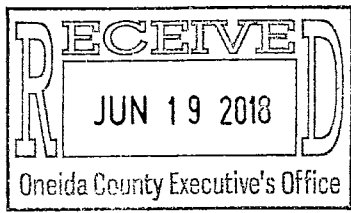
Sheriff Robert M. Maciol

June 14, 2018

FN 20 **18-234**

The Honorable Anthony J. Picente, Jr.
Oneida County Executive
Oneida County Office Building
800 Park Avenue
Utica, NY 13501

PUBLIC SAFETY



WAYS & MEANS

Dear County Executive Picente:

The Sheriff's Office would like to request a Supplemental Appropriation of Funds of \$1,000 to be used to purchase Child Safety Seats and related supplies. The Sheriff's Office has been provided funds thru New York State Governor's Traffic Safety Committee (CPS-2018-Oneida Co SO-00177-(033). No County dollars will used for this project.

I respectfully request that this matter be acted on at the August 8, 2018 Board of Legislators board meeting.

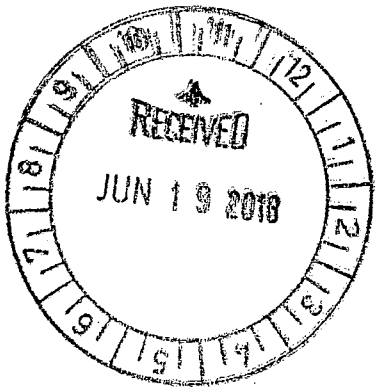
The Supplemental Appropriation Request is as follows:

<u>Transfer from Revenue Account</u>	<u>Amount</u>
A3387 State Traffic Safety Grants	\$1,000.00
<u>Transfer to Expense Account</u>	<u>Amount</u>
A3120.491 Other Materials and Supplies	\$1,000.00

I would like to thank you for your time and diligent attention to this matter in advance. If you have any questions, require clarification or seek additional information from me in order to help you make a decision regarding my request, please do not hesitate to contact me at any point in time.

Sincerely,

Robert M. Maciol,
Oneida County Sheriff



Cc: Tom Keeler, Budget Director

Reviewed and Approved for submittal to the
Oneida County Board of Legislator by

Anthony J. Picente, Jr.
County Executive
Date 6-19-18

ANDREW M. CUOMO
Governor



**Governor's Traffic
Safety Committee**

6 EMPIRE STATE PLAZA • ALBANY, NY 12228 • SafeNY.ny.gov

CHUCK DEWEESE
Assistant Commissioner

Ph: (518) 474-5111
Ph: (518) 474-5777
Fx: (518) 473-6946

July 20, 2017

Ronald Townsend
Lieutenant
Oneida County Sheriff's Office
6065 Judd Road
Oriskany, NY 13424

Re: CPS-2018-Oneida Co SO -00177-(033)
Child Passenger Safety Program
CFDA #: 20.616
EFFECTIVE DATE: October 1, 2017

Dear Lieutenant Ronald Townsend:

On behalf of Governor Andrew M. Cuomo, I am pleased to notify you that the Oneida County Sheriff's Office has been awarded \$1,000 to participate in the statewide "Child Passenger Safety" program. Our goal is to increase the proper use and installation of child safety seats in New York State. Please note all grants will be effective only upon final approval by the New York State Office of the State Comptroller.

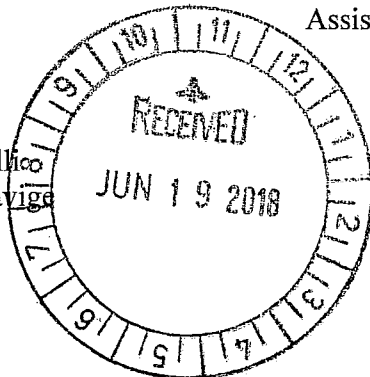
Before incurring any project related expenses, login to eGrants to review your approved budget as it may have been reduced or otherwise changed from what was requested.

Thank you for participating in this very important statewide program. I wish you success in your efforts. If you have any questions, please contact the Governor's Traffic Safety Committee at (518) 474-5111.

Sincerely,

Charles R. DeWeese
Assistant Commissioner

CRD:lz
Enclosure
cc: Anthony Carvellico
Richard Antanaviga



Department of
Motor Vehicles

Anthony J. Picente, Jr
Oneida County Executive



John P. Talerico
Commissioner of Personnel

ONEIDA COUNTY DEPARTMENT OF PERSONNEL

County Office Building 800 Park Avenue Utica, New York 13501-2986
Phone: (315) 798-5725 Fax: (315) 798-6490 Email: personnel@ocgov.net
Web site: www.ocgov.net

June 29, 2018

FN 20 18-235

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

PUBLIC SAFETY

WAYS & MEANS

Dear County Executive Picente:

Attached for your review and approval is correspondence from Sheriff Robert M. Maciol, requesting the creation of one (1) new Deputy Sheriff Patrol position.

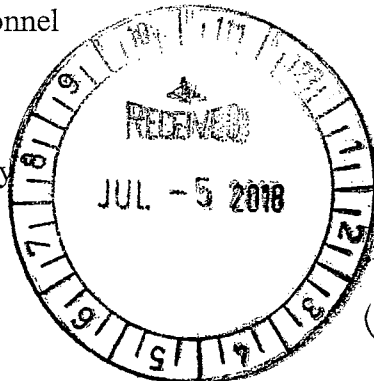
As stated in Sheriff Maciol's letter, he is requesting one (1) Deputy Sheriff Patrol position (Grade 1S, Step 5 at \$47,089) be created to provide oversight to Special Patrol Officers. The anticipated growing number of Special Patrol Officer positions have created a need for supervision of that unit.

This request will require action by the Board of Legislators.

Sincerely,

John P. Talerico
Commissioner of Personnel

Copy: Sheriff
County Attorney
Budget



Reviewed and Approved for submittal to the
Oneida County Board of Legislator by

Anthony J. Picente, Jr.
County Executive

Date 7-5-18



Undersheriff Robert Swenszkowski
Chief Deputy Jonathan G. Owens

Chief Deputy Gregory Pflieger
Chief Deputy Joseph A. Lisi

Sheriff Robert M. Maciol

June 29, 2018

Commissioner John P. Talerico
Oneida County Dept. of Personnel
800 Park Ave., 6th Floor
Utica, NY 13501

Re: MSD 222

Dear Commissioner Talerico:

Enclosed please find MDS 222 for the creation of a Deputy Sheriff Patrol position. With the creation of additional Special Patrol Officer positions, we will need to provide for supervision of that growing unit, which is anticipated to be at 60 SPOs by September.

If you have any questions or need further information, please do not hesitate to contact my office.

Thank you for your time and consideration in this matter.

Sincerely,

Robert M. Maciol
Sheriff

JUN 29 2018

Anthony J. Picente, Jr.
County Executive

David Tomidy
Director



Oneida County Probation Department
321 Main Street, 2nd Floor, Utica, New York 13501

Utica ~ Phone: (315) 798-5914 Fax: (315) 624-3684
Rome ~ Juvenile: (315) 356-2900 Adult: (315) 356-2900
E-mail: probation@ocgov.net · Web Site: www.ocgov.net

Deputy Director
Patrick Cady

Supervisors
Holly Bolton
Thomas Brognano
Mark Joseph
Holly Matthews
John Sharrino

May 4, 2018

FN 20 18-236

The Honorable Anthony J. Picente, Jr.
Oneida County Executive
Oneida County Office Building
800 Park Avenue – 10th Floor
Utica, New York 13501

PUBLIC SAFETY

WAYS & MEANS

Re: Clinton Central School/IRT Program
(2018-2019)

Dear Mr. Picente:

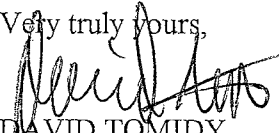
Enclosed is an Agreement between the Probation Department and the Clinton Central School District wherein the school district reimburses the County \$10,750.00 for the services of one Probation Officer, one day a week.

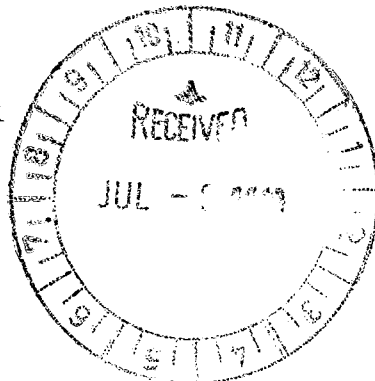
This Officer provides Initial Response Team (IRT) services and other supportive efforts in the school buildings. This successful partnership is designed to identify students with attendance and behavior problems, work with them and their families, and coordinate service delivery. In turn, many students are deferred from more formal PINS and JD services.

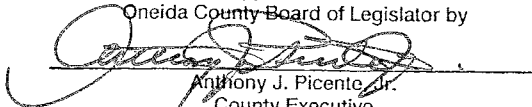
I strongly feel this mutually beneficial program is a cost effective, preventive, and well-received effort worthy of continuing. Please forward this agreement to the Board of Legislators for their approval.

Your support of our programming continues to be most appreciated.

Very truly yours,


DAVID TOMIDY
PROBATION DIRECTOR



Reviewed and Approved for submittal to the
Oneida County Board of Legislator by

Anthony J. Picente, Jr.
County Executive
Date 7-9-18

DT:kas
Enclosures

Oneida Co. Department: Probation

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other X

**Oneida County Board of Legislators
Contract Summary**

Name and Address of Vendor: Clinton Central School District
75 Chenango Road
Clinton, New York 13323

Title of Activity or Service: Initial Response Team (IRT) Program

Proposed Dates of Operation: 7/1/2018 to 6/30/2019

Client Population/Number to be served: Clinton School District Students

Summary Statements:

- 1.) **Narrative Description of Proposed Services:** The Oneida County Probation Department provides Initial Response Team (IRT) services to the Clinton Central School District. It is an early intervention strategy where students starting to display attendance and behavior problems are involved in a process wherein the Probation Department works with students, parents, school authorities, and service providers to effect positive outcomes and improvement.
- 2.) **Program/Service Objectives and Outcomes:** This program is designed to reach 150 students and adjust 80% of those attendance and behavior problems without formal Court intervention. In 2017, we worked with 154 cases and diverted 96% of those cases.
- 3.) **Program Design and Staffing:** One full-time Probation Officer is stationed one day per week at the Junior and Senior High School buildings. The Officer also services the elementary school as needed.

Total Funding Requested: \$10,750.00 Account #: A3142

Oneida County Department Funding Recommendation: \$10,750.00

Proposed Funding Sources (Federal\$/State\$/County\$): Clinton Central School District

Cost Per Client Served: In 2017 the cost per client served totaled \$395.00.

Past Performance Data: We have surpassed our goals of students referred to the program and deferred from Family Court for the past three years.

O.C. Department Staff Comments: The Probation Department recommends that this highly successful and collaborative project continue as it serves Public Safety interests in a cost effective manner and supports the efforts of the Clinton Central School District and parents to help students make positive changes.

Agreement between Oneida County through its Probation Department and Clinton Central School District

THIS AGREEMENT by and between ONEIDA COUNTY, a municipal corporation organized and existing under the laws of the State of New York, with its principal office located at 800 Park Avenue, Utica, New York 13501 (hereinafter referred to as the "County"), through its PROBATION DEPARTMENT, with offices located at 321 Main Street, 2nd Floor, Utica, New York 13501 (hereinafter referred to as "Probation Department"), and CLINTON CENTRAL SCHOOL DISTRICT, a central school district organized and existing under the laws of the State of New York, with its principal offices located at 75 Chenango Avenue, Clinton, New York 13323 (hereinafter referred to as the "School District").

WITNESSETH

WHEREAS, the Probation Department has the capability to provide school districts with Probation Officers for purposes of Initial Response Team ("IRT") services, which attempt to avoid formal Family Court involvement for students who have exhibited behavioral and attendance problems; and

WHEREAS, the School District seeks the Probation Department's IRT services to assist its students in any and all School District buildings;

NOW, THEREFORE the parties hereto intend to be legally bound and hereby agree as follows:

1. TERM:

- a. This Agreement shall be effective from July 1, 2018 until June 30, 2019 (the "Term"), unless earlier terminated as provided hereafter.

2. SCOPE OF SERVICES:

- a. The Probation Department will provide the School District with Initial Response Team efforts and other support services, which shall include the following:
 - i. Evaluating matters for adjustment and supervising persons in lieu of a formal Persons in Need of Supervision ("PINS") petition and court action;
 - ii. Assisting School District staff in identifying those students who are at risk of having formal PINS and Juvenile Delinquency ("JD") petitions filed against them in Family Court;
 - iii. Coordinating with School District staff to develop and implement an IRT intervention protocol specific to the needs of the School District and the specific school included within this Agreement;
 - iv. Facilitating referrals directly to the Probation Department for students who pose a high risk and/or are not able to be adjusted through the IRT process;
 - v. Assisting in the coordination and scheduling of IRT meetings;
 - vi. Monitoring adherence to all written agreements resulting from the IRT process, including the following:
 - A. Interpreting conditions of the IRT agreement;
 - B. Supervising students to determine whether such students comply with the conditions set forth in the IRT agreement and addressing any violations of the IRT agreement accordingly;
 - C. Counseling and assisting students, in the school setting, with

- problems relating to compliance;
 - D. Monitoring students' behavior at home, in school, and in the community;
 - E. Preparing progress reports on persons under probation supervision;
 - F. Establishing and maintaining contacts with social service and law enforcement agencies and cooperating therewith in matters of mutual interest.
 - vii. "Other Support Services" may also include but are not limited to mentoring and monitoring students referred by the School District; monitoring school hallways before, after, and between classes; assisting with school safety and security; and other services that the School District would reasonably expect from a Probation Officer.
- b. The Probation Department will provide one (1) part-time Probation Officer, who will provide the above-described services, one (1) day per week, as directed by the Probation Department, at any and all Clinton Central School District buildings.

3. REIMBURSEMENT FOR SERVICES:

- a. The School District will reimburse the County in the amount of \$10,750.00 for conducting IRT services described above. Salary, fringe benefits, and related travel costs are included in the \$10,750.00 amount.
- b. Reimbursement for IRT services shall be made by the Probation Department's submission of a voucher to the School District, according to the School District's regular policy for payment of its vendors.

4. INDEPENDENT CONTRACOR STATUS:

- a. Both the County and the School District intend that the Probation Officer's status be that of an independent contractor, and that nothing in this Agreement be construed to create an employer/employee relationship between the County and the School District.
- b. The Probation Officer assigned under this Agreement shall remain a County employee for the purposes of salary, benefits, employee discipline, time off, sick days, and other terms and conditions of employment. Likewise, the Probation Officer shall not be considered an employee of the School District for any purpose including, but not limited to, claims for unemployment insurance, workers compensation, retirement or health benefits.
- c. The assignment of a particular Probation Officer remains the sole discretion of the Probation Department. Probation Officers assigned under this Agreement are subject to being re-assigned and replaced based on the needs and policies of the Probation Department.
- d. It is understood by the parties that the County and Probation Department offer the same or similar service(s) to other school districts. The parties agree that the County and Probation Department are free to continue to offer these services to other school districts during the Term of this Agreement.

5. TERMINATION:

- a. This Agreement may be terminated upon thirty (30) days written notice of termination by either party.
- b. At such time as either party may elect to terminate this Agreement, the payments to the County shall be made as of and to the date of termination.

6. INDEMNIFICATION:

- a. Each party agrees to indemnify the other against any claims, demands, actions, proceedings, damages, costs and expenses incurred as a consequence of its negligence in fulfilling its obligations and responsibilities under the terms of this Agreement. It is understood by the Probation Department that all information exchanged is considered confidential and will be used solely for the purposes outlined in this contract.

7. NOTIFICATIONS:

- a. All notices required herein shall be served on or mailed to the parties at the addresses indicated above.

8. AMENDMENT:

- a. This Agreement represents the entire understanding between the parties and the Agreement may not be amended or any of its provisions waived without the prior written consent of both the County and the School District.

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE TO FOLLOW*

IN WITNESS WHEREOF, this Agreement has been duly executed and signed by:

ONEIDA COUNTY

DATE: _____

BY: _____

Anthony J. Picente, Jr.
Oneida County Executive

PROBATION DEPARTMENT

DATE: 6/28/18

BY: David Tomidy

David Tomidy
Director of Probation

CLINTON CENTRAL SCHOOL DISTRICT

DATE: 6/22/18

BY: Mary Lou Lauchert

Mary Lou Lauchert
Board of Education President

APPROVED
ONEIDA COUNTY ATTORNEY

BY: Alison Stanulevich
Alison Stanulevich, Esq.
Assistant County Attorney

Anthony J. Picente, Jr.
County Executive

David Tomidy
Director



Oneida County Probation Department
321 Main Street, 2nd Floor, Utica, New York 13501

Utica ~ Phone: (315) 798-5914 Fax: (315) 624-3684
Rome ~ Juvenile: (315) 356-2900 Adult: (315) 356-2900
E-mail: probation@ocgov.net · Web Site: www.ocgov.net

Deputy Director
Patrick Cady

Supervisors
Thomas Brognano
Matthew Caracas
Mark Joseph
Holly Matthews
John Sharrino

May 15, 2018

Mr. Anthony J. Picente, Jr.
Oneida County Executive
Oneida County Office Building
800 Park Avenue – 10th Floor
Utica, New York 13501

FN 20 18-237

PUBLIC SAFETY

Re: Annual Support and Maintenance Contract

WAYS & MEANS

Dear Mr. Picente:

In 2015/2016, the Probation Department installed a data management system (called Caseload Explorer) utilizing Automon Software Solutions, Inc. with Capital Improvement funds. It has been most successful in managing time, supervision, and supporting Public Safety. We currently have 63 users and are in the process of expanding to mobile connections. The Probation Department would like to contract with Automon for continued maintenance of this system.

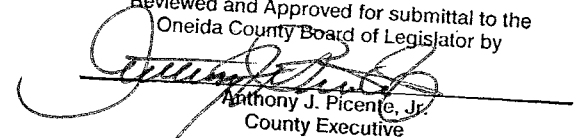
Attached is the annual renewal of the Software Maintenance Agreement. The term of this Agreement runs from July 15, 2018 to July 14, 2019. The total expense for one year term is \$16, 959.28. There are extension terms and costs worked into the Agreement for the next five years.

Please forward this agreement to the Board of Legislators for their approval. Your support for all of our efforts continues to be most appreciated.

Very truly yours,


DAVID TOMIDY
PROBATION DIRECTOR

Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Date 6-14-18

DT:kas
Attachments

Oneida Co. Department: Probation Department

Competing Proposal -
Only Respondent –
Sole Source RFP –
Other - X

**ONEIDA COUNTY BOARD OF LEGISLATORS
CONTRACT SUMMARY**

Name and Address of Vendor: AutoMon Software Solutions, LLC.
6621 North Scottsdale Road
Scottsdale, AZ 85250

Title of Activity or Service: Software Maintenance Agreement-
For Caseload Explorer

Proposed Dates of Operation: July 15, 2018 – July 14, 2019 (Extension periods to
contract up to five (5) years worked into contract).

Client Population/Number to be Served: Probation Staff

Summary Statements:

1. **Narrative Description of Proposed Services:** Annual Maintenance for the Data Management System (Caseload Explorer). This contract will provide technical expertise, repair of software errors, and software updates to Caseload Explorer.
2. **Program/Service Objectives and Outcomes:** Complete and efficient case management/record keeping for the Probation Department.
3. **Program Design and Staffing:** NA

Total Funding Requested: \$16,959.28 (Year 1)

Account #A3141.493

Oneida County Dept. Funding Recommendation: \$16,959.28 (Year 1)

Extension periods provided for in contract:

Term	Cost
7/15/2018 - 7/14/2019	\$ 16,959.28
7/15/2019 - 7/14/2020	\$ 18,697.94
7/15/2020 - 7/14/2021	\$ 19,445.86
7/15/2021 - 7/14/2022	\$ 20,223.69
7/15/2022 - 7/14/2023	\$ 21,032.64

Proposed Funding Sources (Federal \$/State \$/County \$): Oneida County

Cost per Client Served: NA

Past Performance Data: NA

O.C. Departmental Staff Comments: The implementation of Caseload Explorer has assisted the Department in record keeping, communicating, and has provided a higher level of quality assurance. This Maintenance Agreement will ensure the Caseload Explorer software is kept up to date and functioning properly.

SOFTWARE MAINTENANCE AGREEMENT

This Software Maintenance Agreement (the "Agreement") is between AutoMon Software Solutions, LLC., located at 6621 North Scottsdale Road, Scottsdale AZ, 85250 (the "Licensor"), and the County of Oneida, located at 800 Park Ave, Utica, New York 13501 (the "County"), through its Probation Department, located at Boehlert Center at Union Station, 321 Main Street, Utica, New York 13501 (the "Customer") for Caseload Explorer Software locally installed at the Customer site.

1. Technical Support Services. Technical Support Services (the "Services") shall mean providing Licensor's technical expertise to assist the Customer in the on-going use of the licensed software, repair of software errors, and software updates to enhance and improve Caseload Explorer and any local interfaces supported by Licensor. These Services shall be provided consistent with the terms and conditions set forth in the Software Maintenance Services Customer Handbook, Version 6.0, dated January 11, 2017, or its successor, a copy of which is attached hereto as Exhibit A. Customer must maintain and provide, consistent with County security policies, access to Licensor's personnel via secure high speed remote access connection. Services will be provided remotely by telephone or online at Licensor's option. If at any time during the term of this Agreement, a New York OGS Contract comes into effect that covers the support of Caseload Explorer or any other products licensed by Customer from Licensor, the terms and conditions of New York OGS Contract shall govern the terms and conditions of this Software Maintenance Agreement.

2. Term and Termination.

2.1. The term of this Software Maintenance Agreement shall commence on July 15, 2018 (the "Effective Date") and shall remain in force for a term of twelve (12) consecutive months, expiring July 14, 2019 (the "Term").

2.2. This Agreement may be extended by mutual written agreement of the parties for up to four (4) additional one (1) year terms.

2.3. Termination for Convenience. The County shall have the right to terminate this Agreement in its entirety for its convenience at any time by providing Licensor with written notice. Such termination shall not entitle the County to a refund of any pre-paid subscription fees or other costs, and the County must promptly pay any unpaid obligations owed to Licensor for the Term as of the date of the County's written notice of termination.

2.4. Termination for Cause. A party may terminate this Agreement for cause: (i) upon thirty (30) days written notice to the other party of a material breach if such breach remains uncured at the expiration of such thirty (30) day period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

2.5. Refund or Payment upon Termination. Upon any termination for cause by the County, Licensor shall refund the County any prepaid fees covering the remainder of the Term after the effective date of termination. Upon any termination for cause by Licensor, the County shall pay any unpaid fees covering the remainder of the Term after the effective date of termination. In no event shall any termination relieve the County of the obligation to pay any fees payable to Licensor for the period prior to the effective date of termination.

3. **Maintenance and Support Fee.** The table below sets forth the annual charge for the Services and hourly time and materials charge applicable to authorized change orders during the Term, as well as any extended term in accordance with Section 2.2 above:

Caseload Explorer Software Maintenance Services

Term	Cost
7/15/2018 - 7/14/2019	\$ 16,959.28
7/15/2019 - 7/14/2020	\$ 18,697.94
7/15/2020 - 7/14/2021	\$ 19,445.86
7/15/2021 - 7/14/2022	\$ 20,223.69
7/15/2022 - 7/14/2023	\$ 21,032.64

Hourly Time and Materials

Term	Rate
7/15/2018 - 7/14/2019	\$ 192.11
7/15/2019 - 7/14/2020	\$ 199.79
7/15/2020 - 7/14/2021	\$ 207.79
7/15/2021 - 7/14/2022	\$ 216.10
7/15/2022 - 7/14/2023	\$ 224.74

4. **Payment.** Payment will be made only to the extent funds have been appropriated and are available for the purposes of this Agreement, and no liability on account thereof shall be incurred by the County beyond the amount of such funds.

5. **Confidentiality.**

5.1. **Definition of Confidential Information.** As used herein, "Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. The County's Confidential Information shall include County Data. Licensor's Confidential Information shall include the Services. Confidential Information of both parties shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than County Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

5.2. **Protection of Confidential Information.** The Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own Confidential Information of like kind (but in no event less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

5.3. Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

5.4. Exclusive Property. Each party's Confidential Information shall remain the exclusive property of the party. The County's Confidential Information shall be returned by Licensor to the County, or destroyed at the County's direction, upon termination or expiration of this Agreement. Licensor acknowledges that the County is subject to various legal requirements for record retention, and Licensor agrees that any Confidential Information disclosed to the County in tangible form shall be retained and disposed of by the County, at the County's sole discretion, in accordance with the Records Retention And Disposition Schedule CO-2, pursuant to 8 NYCRR § 185.13 (Appendix J).

5.5. FOIL. Licensor acknowledges and agrees that the County is subject to New York Public Officers Law, Article 6, Freedom of Information Law ("FOIL"). In order for the County to assert the exception for proprietary information contained in Public Officers Law Section 87(2)(d), Licensor shall mark any Confidential Information it wishes to have the County withhold upon a request received pursuant to FOIL as follows: "Proprietary. Not subject to disclosure under Public Officers Law Section 87(2)(d)."

6. Performance of Services.

6.1. Licensor represents that Licensor is duly licensed and has the qualifications, the specialized skills, the experience and the ability to properly perform the Services. Licensor shall use the Licensor's best efforts to perform the Services such that the results are satisfactory to the County. Licensor shall be solely responsible for determining the location, method, details and means of performing the services, except where Federal, State, or Local Laws and Regulations impose specific requirements on performance of the same.

6.2. Licensor may, at the Licensor's own expense, employ or engage the services of such employees, subcontractors and/or partners as Licensor deems necessary to perform the Services (collectively, the "Assistants"). The Assistants are not and shall not be employees of the County, and the County shall have no obligation to provide Assistants with any salary or benefits. Licensor shall be solely responsible and shall remain liable for the performance of the Services by the Assistants in a manner satisfactory to the County, in compliance with any and all applicable Federal, State, or Local Laws and Regulations. Licensor shall expressly advise the Assistants of the terms of this Agreement.

6.3. Licensor acknowledges and agrees that Licensor and its Assistants have no authority to enter into contracts that bind the County or create obligations on the part of the County without the prior written authorization of the County.

6.4. Licensor shall inform the County within twenty-four (24) hours if it is unable or unwilling to perform Services pursuant to this Agreement. Licensor maintains the right to do so at any time, and the County maintains the right to contract with other individuals or entities to perform the same Services.

7. Independent Contractor. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

7.1. Licensors shall not be considered an employee of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. Licensors, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself in accordance with such status, that it, nor any of its employees, shall hold themselves out as, nor claim to be, officers or employees of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.

7.2. Licensors warrants and represents that it is in the business of offering the same or similar Services detailed herein and does offer the same or similar Services to other entities as a regular course of business. Licensors and the County agree that Licensors is free to undertake other work arrangements during the term of this Agreement, and may continue to make its Services available to the public.

7.3. Licensors shall not be eligible for compensation for absence due to i) illness; ii) normal vacation; or iii) attendance at school or special training or a professional convention or meeting.

7.4. Licensors acknowledges and agrees that Licensors shall not be eligible for any County employee benefits, including retirement membership credits.

7.5. Licensors shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Licensors under this Agreement, and for compliance with all applicable labor and employment requirements with respect to the Licensors's self-employment, sole proprietorship or other form of business organization, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Licensors shall provide proof of workers' compensation insurance, where applicable, prior to execution of this Agreement.

7.6. Licensors will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.

7.7. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Licensors's independent contractor status, it is agreed that both the County and Licensors shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.

7.8. Licensors agrees to comply with Federal and State Laws as supplemented in the Department of Labor regulations and any other regulations of the Federal and State entities relating to such employment and Civil Rights requirements.

8. **Insurance.** Licensors shall maintain, in full force and effect during the Term of this Agreement, at Licensors's expense, insurance with stated minimum coverages, as described in Schedule A, attached and incorporated into this Agreement.

9. **Indemnification.** To the fullest extent permitted by applicable law, Licensors (the "Indemnifying Party") shall indemnify and hold harmless, and at Oneida County's option, defend, Oneida County, and/or its officers, directors, members, agents, employees, contractors and other representatives (each, individually, an "Indemnified Party" and, collectively, the "Indemnified Parties"), from and against any

and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, economic damage, and claims brought by third parties for personal injury and/or property damage (collectively, "Damages"), incurred by any Indemnified Party caused by any negligent act or omission, or intentional misconduct of the Indemnifying Party, its officers, agents, employees (including Licensor's authorized personnel) arising out of or in connection with the exercise by Licensor or any of Licensor's authorized personnel of the rights and privileges granted by or pursuant to this Agreement, except to the extent such Damages are caused by the sole negligence, unlawful act or omission, or intentional misconduct of an Indemnified Party.

10. Service of Process. Licensor expressly agrees that in the event an action is filed in a Court of Competent Jurisdiction in Oneida County, New York, service of said action shall be made in accordance with New York State Civil Practice Law and Rules Section 311, New York State Business Corporation Law Section 306, and/or New York State Business Corporation Law Section 307, and such service shall be deemed good and sufficient.

11. Agreement to Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, exclusive of its choice of laws, rules, and principles. The parties agree that any legal action shall be filed in a court of competent jurisdiction in Oneida County, New York. Licensor expressly consents to personal jurisdiction in New York State.

12. Waiver. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right.

13. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

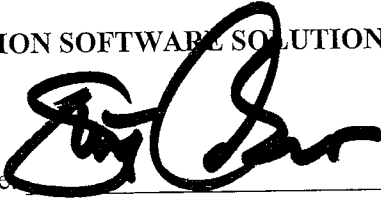
14. Entire Agreement. This Agreement, along with Schedule A (Insurance Requirements), Exhibit A (Software Maintenance Services Customer Handbook), Exhibit B (Standard Oneida County Conditions), and Exhibit C (Oneida County Software-As-A-Service Terms and Conditions) constitute the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the parties sought to be bound.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE TO FOLLOW.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the day and year written below.

AUTOMON SOFTWARE SOLUTIONS, LLC

Signature



JUNE 5, 2018
Date

BY: Scot Asher
Title: VP of Sales

ONEIDA COUNTY

BY: Hon. Anthony J. Picente, Jr.
Title: Oneida County Executive

Date

ONEIDA COUNTY PROBATION DEPARTMENT

BY: David Tomidy

Title: Director of Probation

Date

6/8/18

Approved

Alison M. Stanulevich
Assistant County Attorney

SCHEDULE A
TO SOFTWARE MAINTENANCE AGREEMENT
INSURANCE REQUIREMENTS

- A. Licensor shall purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A. M. Best.
1. Commercial General Liability (CGL) coverage with limits of Insurance of not less than \$1,000,000 each occurrence and \$2,000,000 Annual Aggregate.
 - a. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products-completed operations, and personal and advertising injury.
 - b. The County and any other parties required by the County shall be included as additional insureds. Coverage for the additional insureds shall apply as Primary and Non-contributing Insurance before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by, or provided to, the additional insured(s).
 2. Workers' Compensation and Employers Liability
 - a. Statutory limits apply.
 3. Automobile Liability
 - a. Business Auto Liability with limits of at least \$1,000,000 each accident.
 - b. Business Auto coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.
 - c. Oneida County shall be included as additional insureds on the auto policy. Coverage for these additional insureds shall be on a primary and non-contributing basis.
 4. Professional Liability
 - a. \$2,000,000 Aggregate Liability
 - b. \$1,000,000 / occurrence
 5. Technical Errors and Omissions
 - a. \$2,000,000 Aggregate Liability
 - b. \$2,000,000 / occurrence
 6. Commercial Umbrella
 - a. Umbrella limits must be at least \$2,000,000.
 - b. Umbrella coverage must include as additional insureds all entities that are additional insureds on the CGL.
 - c. Umbrella coverage for such additional insureds shall apply as primary and non-contributing before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by, or provided to, the additional insured.

- B. Waiver of Subrogation: Licensor waives all rights against the County and their agents, officers, directors and employees for recovery of damages to the extent these damages are covered by Commercial General Liability or Workers' Compensation and Employer's Liability insurance maintained per requirements stated above.
- C. Certificates of Insurance: Prior to the start of any work, Licensor shall provide a certificate of insurance to the County. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of Licensor's Commercial General Liability Policy. These certificates and the insurance policies required above shall contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the County.



Software Maintenance Services

Customer Handbook

Version 6.0

Effective Date: January 11, 2017

AutoMon, LLC

6621 N Scottsdale Road

Scottsdale, AZ 85250

480.368.8555

www.automon.com



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Welcome to AutoMon Support

AutoMon is committed to ensuring your success. We offer customers direct, high-quality, responsive technical support. We strive to create a support environment that will provide you with the information and resolutions quickly, resulting in maximized availability and increased performance of our software tools.

This handbook provides guidelines and reference materials that describe AutoMon's software support, system upgrades, customer responsibilities and maintenance terms. Delivery of support is governed by your maintenance contract with AutoMon. To the extent that there are any differences between your maintenance contract and this handbook, the maintenance contract shall govern.



Contacting AutoMon Support

Once the Customer is using an AutoMon product or service, support is handled by AutoMon's Help Desk. Support may be requested using AutoMon's toll-free phone number, or via "AutoMon Connect," an online portal for reporting issues or errors. After-hours support is available for an additional hourly fee and only offered on a non-guaranteed response time.

The AutoMon Help Desk may be reached by calling 1-888-726-8110 Ext 2. AutoMon's Standard Support Hours are: Europe and South America Mon-Fri 9 a.m. to 5 p.m. (ET) North America (except for Alaska and Hawaii) Mon-Fri 9 a.m. to 5 p.m. (Local Time Zone) Alaska and Hawaii Mon-Fri 6 a.m. to 5 p.m. (Pacific Time) excluding weekends and holidays. Additional Support Hours are honored in accordance with the Support Hours specified in your License, Maintenance and Service Agreement. Alternatively, AutoMon Connect can be accessed via the AutoMon website Support page at:

<https://portal.teamsupport.com/AutoMonLLC>

Logons and Passwords to AutoMon Connect are issued through the portal itself. To receive a password you can visit the URL above and select to request access. As long as your Software Maintenance Agreement is in effect, there is no limit on the amount of Standard Business Hours Support except as described above.

Depending on the terms of your license and maintenance agreement, software upgrades for licensed modules may be a part of our obligations to you. Please check your contract agreements with AutoMon for details.



Customer Responsibilities

You are required to establish and maintain an internal help desk to provide First Line Support for the software directly to your users. This may include topics such as network, server hardware, systems software, desktop support and basic user questions or problems. First Line Support shall include but not be limited to:

- A direct response to users with respect to inquiries concerning the performance, functionality or operation of the system
- A direct response to users regarding problems with the system
- A diagnosis of problems reported
- A resolution of the problems reported

If after reasonable commercial efforts your First Line Support is unable to diagnose or resolve the issues reported, your designated representative may contact AutoMon Support regarding issues with the licensed software. In the event that you do not establish and maintain First Line Support to your users, AutoMon reserves the right to request an increase your current maintenance fee and/or assess charges for out of scope work. Any additional charges, referred to in the previous sentence, will constitute a change order that must be signed by both parties.

Additional customer responsibilities include:

- Maintaining all required Third Party Software to the release level compatible with the installed version(s) of the Licensed Software;
- Implementing and performing appropriate data backup and data recovery procedures related to the Licensed Software;
- Securing a high speed internet connection for use by AutoMon to perform support services;
- Maintaining software maintenance and updating agreements with Third Party Software vendors at your expense.



Service Level Definitions

Service requests for AutoMon software may be submitted by your designated representative online via AutoMon's web-based customer support system, IssueTracker, or by telephone. The Service Level shall be determined based on the severity definitions specified below.

Service Level	Service Level Definition	Initial Response Time	Resolution
1	Your production use of the software is stopped or severely impacted such that you cannot continue to work. The operation is mission critical to the business and no Circumvention Procedures are available.	2 hours	2 business days
2	You experience a severe loss of service where essential functionality is unavailable; however, operations can continue in a restricted fashion or by use of a Circumvention Procedure.	1 business day	5 business days
3	You experience a loss of service where non-essential functionality is unavailable and a workaround is not available to restore functionality.	2 business days	25 business days
4	You experience a loss of service where non-essential functionality is unavailable. The impact is an inconvenience or a Circumvention Procedure is available.	2 business days	Within next two version releases
5	A cosmetic or minor issue that does not impact the operation of a software.	2 business days	Issue may be resolved at AutoMon's discretion at a future date
6	All Enhancement requests, usage questions, or requests for training. Also reported problems that are caused by customer computers, local	4 business days	These requests are outside the scope of our maintenance



	environments, networks or third party software.		obligations
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Product Version Releases

AutoMon will provide the Customer with Version Releases (as defined below) for the Licensed Software in accordance with the terms of your license and maintenance agreements with AutoMon.

The term "Version Releases" means new versions of the Licensed Software that contain technical repairs and improvements, functional enhancements, updates, and/or maintenance changes to existing functionality in the Licensed Software. In some cases, new features, functionality, and extensions to the application may be considered a "New Product" by AutoMon. In order to obtain a "New Product", the Customer will have to license the "New Product." The determination of whether changes to the Licensed Software are considered Version Releases or a "New Product" shall be made solely at the discretion of AutoMon. AutoMon will not install New Products without prior written authorization from the Customer. The delivery of each Version Release will include a complete, installable copy of the Licensed Software. When appropriate, Version Releases will be accompanied by one or more of the following: user documentation, installation documentation, and release notes.

The Customer shall be responsible for the installation, integration, and training with respect to each Version Release or they can contract with AutoMon to perform these services.

Upgrade Process

For hosted or SAAS licensed software, the steps are:

1. AutoMon will notify customer that a new version or release is ready and will be deployed. During deployment of new versions or releases, the Licensed Software may be unavailable for use.
2. AutoMon will deploy the new version and notify the customer that the upgrade is complete.

For on-premise licensed software (licensed software that resides on customer owned servers) the steps are:



1. AutoMon will notify customer that a new version release to their Licensed Software is ready to be deployed.
2. In preparation for the update each Customer will be responsible for downloading the required installation files from the AutoMon SFTP site or as otherwise directed by AutoMon staff. Instructions for obtaining updates and installing those updates will be provided by AutoMon to the customer.
3. Each Customer will be responsible for preparing their servers for implementation of updates and running the installation programs on their Licensed Software. AutoMon will assist with updating local servers and running the installation programs associated with updates on a time and materials basis. See your agreement with AutoMon for applicable hourly rates.
4. Please note that in an increasing number of instances, version release upgrades will occur without active assistance of the customer, via AutoMon automated update process using Ce Sync. When Ce Sync updates your Licensed Software you will be notified in advance by AutoMon and provided release notes describing the changes that will occur.

Other Support Services

Customers may request additional services by contacting the AutoMon sales department at sales@automon.com. Such other support services may include, services related to: (a) additional training; (b) programming services; and (c) business analysts. AutoMon shall provide to Customer a written response to the request which describes in detail the anticipated impact of the request on the existing Licensed Software, the time required to perform such services, an implementation plan, and a schedule of the fees.

Definitions

- a) **“Circumvention” or “Circumvention Procedures”** shall mean, as applied to a Documented Defect, a change in operating procedures whereby the Customer can reasonably avoid any deleterious effects of such Documented Defect.
- b) **“Documented Defect”** means a failure of the Licensed Software to properly perform any of its intended functions. The Customer must use reasonable effort to document a Documented Defect



with sufficient information to recreate the defect, including, but not limited to, the operating environment, data set, and user, and the Customer must deliver such information to AutoMon concurrently with its notification to AutoMon of such defect. The Customer shall use all reasonable efforts to eliminate any non-application related issues prior to its notification to AutoMon of such defect, including, but not limited to, issues related to the network, user training and data problems not caused by the Licensed Software. Any technical or other issue for which the Customer requests services, but which is not a Documented Defect, shall be treated as a request for additional services requiring a Change Order.

- c) **"Documentation"** means the training materials, user's manuals and other materials in any form or medium provided by AutoMon to the users of the Licensed Software regarding the use or maintenance of Licensed Software.
- d) **"Enhancement."** Any modification or addition that, when made or added to the Licensed Program, changes its utility, efficiency, functional capability, or application, but that does not constitute an Error Correction.
- e) **"Error."** Any failure of the Licensed Program to materially conform to its functional specifications as agreement in writing with the Customer or Documentation as published from time to time by AutoMon. Any nonconformity resulting from Customer's misuse, improper use, alteration, or damage of the Licensed Program shall not be considered an Error.
- f) **"Error Correction."** Either a modification or an addition that, when made or added to the Licensed Program, establishes material conformity of the Licensed Program to the Documentation, or a procedure or routine that, when observed in the regular operation of the Licensed Program, eliminates the practical adverse effect on Customer of such nonconformity.
- g) **Licensed Software** includes any and all software and Documentation to which Customer obtains or is granted any rights under a License Agreement with AutoMon.
- h) **Third Party Software** means software licensed by a party other than AutoMon.

EXHIBIT B

STANDARD ONEIDA COUNTY CONDITIONS

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislators Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.

- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
 - ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
- i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

- 1) Abide by the terms of the statement; and
- 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

- F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

- 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- 2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

- G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

- 1) The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPPA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
 - i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
 - ii. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
 - ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
 - iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
 - iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
 - v. Make available protected health information in accordance with 45 CFR §164.524;
 - vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
 - vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
 - viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.

- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKER'S COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and

supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered

responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.
- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in

accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, "e-cigarette" shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.

- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
- i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

EXHIBIT C

ONEIDA COUNTY SOFTWARE-AS-A-SERVICE TERMS AND CONDITIONS

1. Definitions:

- a. **“Authorized Persons”** means the service provider’s employees, contractors, subcontractors or other agents who need to access to Oneida County’s data to enable the service provider to perform the services required.
- b. **“Data Breach”** means unauthorized access that results in the use, disclosure or theft of Oneida County’s data.
- c. **“Individually Identifiable Health Information”** means Information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.ⁱ
- d. **“Software-as-a-Service” (SaaS)** means the capability provided to Oneida County to use the provider’s applications running on a cloud Software. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. Oneida County does not manage or control the underlying cloud Software including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.ⁱⁱ
- e. **“Non-Public Data”** means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by Oneida County because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information. All Oneida County data in the possession of the SaaS provider is considered “Non-Public Data” unless expressly noted under the terms of this contract.
- f. **“Personal Data”** means data that includes information relating to a person that identifies the person by name and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver’s license, passport), financial account information, including account number, credit or debit card numbers, or protected health information (PHI) relating to a person.
- g. **“Protected Health Information” (PHI)** means individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv), and employment records held by a covered entity in its role as employer.ⁱⁱⁱ
- h. **“Oneida County Data”** means all data created or in any way originating with Oneida County, and all data that is the output of computer processing of or other electronic manipulation of any

data that was created by or in any way originated with the Oneida County, whether such data or output is stored on the Oneida County's hardware, the service provider's hardware or exists in any system owned, maintained or otherwise controlled by Oneida County or by the service provider.

i. "Oneida County Identified Contact" means the person or persons designated in writing by Oneida County to receive security incident or breach notification.

j. "Security Incident" means the potentially unauthorized access to data the service provider believes could reasonably result in the use, disclosure or theft of Oneida County's that data within the possession or control of the service provider. A security incident may or may not turn into a data breach.

k. "Service Level Agreement" (SLA) means a written agreement between Oneida County and the service provider that is subject to the terms and conditions in this document that unless otherwise agreed to includes (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) security responsibilities and notice requirements, (5) how disputes are discovered and addressed, and (6) any remedies for performance failures.

l. "Service Provider" (SP) means the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.

m. "Statement of Work" means a written statement in a solicitation document or contract that describes the Oneida County's service needs and expectations.

2. Data Ownership: Oneida County will own all right, title and interest in its data that is related to the services provided by this contract. The service provider shall not access Oneida County user accounts, or Oneida County data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract, or (4) at the County's written request.

3. Data Protection: Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of Oneida County information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of Oneida County information within its control and comply with the following conditions:

a. The service provider shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Oneida County data within its control. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind.

b. All data obtained by the service provider within its control in the performance of this contract shall become and remain property of Oneida County.

c. Unless otherwise stipulated, Oneida County data shall be encrypted at rest and in transit with controlled access. The service level agreement (SLA) and contract document will specify which party is responsible for encryption and access control of the Oneida County data for the service model under contract.

d. Unless otherwise stipulated, all Oneida County data in possession of the vendor is considered non-public data to the service provider. Therefore, the level of protection and encryption for all Oneida County data shall be identified and made a part of this contract.

e. At no time shall any data or processes – which either belong to or are intended for the use of Oneida County or its officers, agents or employees – be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include Oneida County.

4. Data Location: The service provider shall provide its services to Oneida County and its end users solely from data centers in the United States (U.S.). Storage of Oneida County data at rest shall be located solely in data centers in the U.S. The service provider shall not allow its personnel or contractors to store Oneida County data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The service provider shall permit its personnel and contractors to access Oneida County data remotely only as required to provide technical support.

5. Security Incident or Data Breach Notification: The service provider shall inform the Oneida County of any security incident or data breach related to Oneida County data within the possession or control of the service provider and related to the service provided under this contract.

a. **Security Incident Reporting Requirements:** Unless otherwise stipulated, the service provider shall immediately report a security incident related to its service under the contract to the Director of Oneida County Central Services

b. **Breach Reporting Requirements:** If the service provider has actual knowledge of a confirmed data breach that affects the security of any Oneida County content that is subject to applicable data breach notification law, the service provider shall (1) promptly notify the Oneida County Director of Central Services within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the data breach in a timely manner.

6. Breach Responsibilities: This section applies when a data breach occurs with data within the possession or control of a service provider and related to service provided under this contract.

a. The service provider, unless stipulated otherwise, shall immediately notify the Oneida County Director of Central Services by telephone in accordance with the agreed upon security plan or security procedures if it reasonably believes there has been a security incident.

b. The service provider, unless stipulated otherwise, shall promptly notify the Oneida County Director of Central Services within 24 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there is or reasonably believes that there has been a data breach. The service provider shall (1) cooperate with the Oneida County Director of Central Services as reasonably requested County to investigate and resolve the data breach; (2) promptly implement necessary remedial measures, if necessary; and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

c. Unless otherwise stipulated, if a data breach is a direct result of the service provider's breach of its contract obligation to encrypt data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state law; (3) providing credit

monitoring service required by state (or federal) law; (4) establishing a website or a toll-free number and call center for affected individuals required by state law; and (5) complete all corrective actions as reasonably determined by the service provider based on root cause; all [(1) through (5)] subject to this contract's limitation of liability.

7. Notification of Legal Requests: The service provider shall contact the Oneida County Director of Central Services upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to Oneida County's data under this contract, or which in any way might reasonably require access to the data of the Oneida County. The service provider shall not respond to subpoenas, service of process and other legal requests related to Oneida County without first notifying the Oneida County, unless prohibited by law from providing such notice.

8. Termination and Suspension of Service:

a. In the event of an early termination of the contract, the service provider shall allow for the Oneida County to retrieve its digital content and provide for the subsequent secure disposal of Oneida County digital content.

b. During any period of suspension, the service provider shall not take any action to intentionally erase any Oneida County digital content.

c. In the event of early termination of any services or agreement in entirety, the service provider shall not take any action to intentionally erase any Oneida County data for a period of 1) 30 days after the effective date of termination, if the termination is for convenience; or 2) 30 days after the effective date of termination, if the termination is for cause. After such day period, the service provider shall have no obligation to maintain or provide any Oneida County data and shall thereafter, unless legally prohibited, delete all Oneida County data in its systems or otherwise in its possession or under its control. In the event of either termination for cause, the service provider will impose no fees for access and retrieval of digital content to the customer.

d. After termination of the contract and the prescribed retention period, the provider shall securely dispose of all digital content in all of its forms, such as disk, CD/DVD, backup tape and paper. Oneida County's digital content shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST) approved methods. Certificates of destruction shall be provided to Oneida County.

9. Background Checks: The service provider shall conduct criminal background checks and not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or any misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The service provider shall promote and maintain an awareness of the importance of securing the Oneida County's information among the service provider's employees and agents.

10. Access to Security Logs and Reports:

a. The service provider shall provide reports to the Oneida County Director of Central Services directly related to the Software that the service provider controls upon which the Oneida County account resides. Unless otherwise agreed to in the SLA, the service provider shall provide the Oneida County's Director of Central Services a history or all API calls for the Oneida County account that includes the identity of the API caller, the time of the API call, the source IP address of the API caller, the request parameters and the response elements returned by the service

provider. The report will be sufficient to enable Oneida County to perform security analysis, resource change tracking and compliance auditing.

b. The service provider and Oneida County recognize that security responsibilities are shared. The service provider is responsible for providing a secure Software. Oneida County is responsible for its secure guest operating system, firewalls and other logs captured within the guest operating system. Specific shared responsibilities are identified within the SLA.

11. Contract Audit: The service provider shall allow Oneida County to audit conformance to the contract terms. Oneida County may perform this audit or contract with a third party at its discretion and at Oneida County's expense.

12. Data Center Audit: The service provider shall perform an independent audit of its data centers at least annually and at its own expense, and provide a redacted version of the audit report upon request to the Oneida County Director of Central Services. The service provider may remove its proprietary information from the redacted version. For example, a Service Organization Control (SOC) 2 audit report would be sufficient.

13. Change Control and Advance Notice: The service provider shall give advance notice (to be determined at contract time and included in the SLA) to Oneida County of any upgrades (e.g., major upgrades, minor upgrades, system changes) that may impact service availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version in order to bring the system up to date or to improve its characteristics. It usually includes a new version number.

14. Security: The service provider shall disclose its non-proprietary security processes and technical limitations to Oneida County such that adequate protection and flexibility can be attained between the Oneida County and the service provider. For example: virus checking and port sniffing – Oneida County and the service provider shall understand each other's roles and responsibilities.

15. Non-Disclosure and Separation of Duties: The service provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements and limit staff knowledge of customer data to that which is absolutely necessary to perform job duties.

16. Responsibilities and Uptime Guarantee: The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environment is the responsibility of the service provider. The system shall be available 24/7/365 (with agreed-upon maintenance downtime), and provide service to customers as defined in the SLA.

17. Sub-Contractor Disclosure: The service provider shall identify all of its strategic business partners related to services provided under this contract, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the service provider, and who shall be involved in any application development and/or operations.

18. Right to Remove Individuals: Oneida County shall have the right at any time to require that the service provider remove from interaction with Oneida County any service provider representative who the Oneida County believes is detrimental to its working relationship with the service provider. Oneida County shall provide the service provider with notice of its determination, and the reasons it requests the removal. If Oneida County signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract or future work orders without Oneida County's consent.

19. Business Continuity and Disaster Recovery: The service provider shall provide a business continuity and disaster recovery plan upon request and ensure that Oneida County's recovery time objective (RTO) of XXX hours/days is met. (XXX shall be negotiated by both parties.)

20. Compliance with Accessibility Standards: The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

21. Encryption of Data at Rest: The service provider shall ensure hard drive encryption consistent with validated cryptography standards as referenced in FIPS 140-2, Security Requirements for Cryptographic Modules for all personal data, unless the public jurisdiction approves the storage of personal data on a service provider portable device in order to accomplish work as defined in the statement of work.

ⁱ HIPAA Privacy Rule, Definitions, U.S. Department of Health and Human Services, National Institute of Health.

ⁱⁱ Special Publication 800-146, "Cloud Computing Synopsis and Recommendations" National Institute of Standards and Technology, May 2012.

ⁱⁱⁱ U.S. Department of Health and Human Services, National Institute of Health, HIPAA Privacy Rule, Definitions.

Anthony J. Picente, Jr.
County Executive



David Tomidy
Director



Oneida County Probation Department

321 Main Street, 2nd Floor, Utica, New York 13501

Utica ~ Phone: (315) 798-5914 Fax: (315) 624-3684
Rome ~ Juvenile: (315) 356-2900 Adult: (315) 356-2900
E-mail: probation@ocgov.net · Web Site: www.ocgov.net

Deputy Director
Patrick Cady

Supervisors
Holly Bolton
Thomas Brognano
Mark Joseph
Holly Matthews
John Sharrino

May 1, 2018

FN 20 18238

Mr. Anthony J. Picente, Jr.
Oneida County Executive
Oneida County Office Building
800 Park Avenue – 10th Floor
Utica, New York 13501

PUBLIC SAFETY

WAYS & MEANS

Re: Alternatives to Incarceration Grant 2018-2019

Dear Mr. Picente:

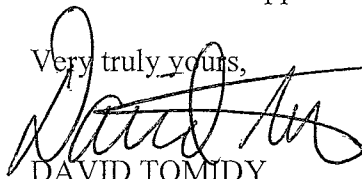
In April we submitted an ATI Plan for 2018/2019 that was approved by the ATI Board to DCJS. Enclosed is the yearly renewal contract for reimbursement of expenses (based on outcomes) incurred by our Domicile Restriction Program. We are very pleased that the amount of this grant is \$42,594.00. We have run this successful program for over 20 years which allows defendants the opportunity to live at home, work, and seek treatment instead of incarceration. This program serves both adults and juveniles. In 2017, our accounting reveals savings to the County of over \$1.5 million.

This program is highly cost effective and promotes social adjustment of appropriate offenders. We are able to increase the chances of offenders making positive adjustments in their lives, without sacrificing public safety.

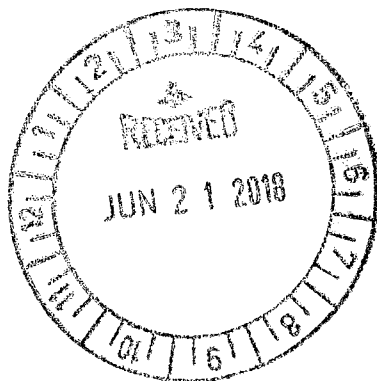
Please submit this contract to the Board of Legislators for approval. Upon their approval please sign the contract electronically.

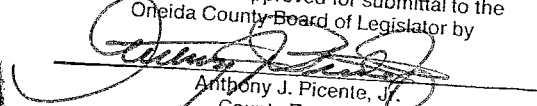
Your continued support of this and all of our programs and efforts is most appreciated.

Very truly yours,


DAVID TOMIDY
PROBATION DIRECTOR

DT:kas
Enclosures



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
County Executive
Date 6-21-18

**ONEIDA COUNTY BOARD OF LEGISLATORS
CONTRACT SUMMARY**

Name & Address of Vendor: NYS Division of Criminal Justice Services
80 South Swan Street
Albany, New York 12210

Title of Activity or Service: Domicile Restriction Program- Alternatives to Incarceration Grant

Proposed Dates of Operation: 7/1/2018 to 6/30/2019

Client Population/Number to be Served: Pre-trial and post-sentenced defendants

Summary Statements:

- 1) **Narrative Description of Proposed Services:** This grant assists in funding the Domicile Restriction Program which provides Alternatives to Incarceration at the Pre-Trial and Post-Sentencing stages of the legal process and is a graduated sanction of Probation. The Program allows for home sobriety checks and surveillance of sex offender movements.
- 2) **Program/Service Objectives and Outcomes:** In 2017, the Program replaced 7,761 days of incarceration at the Oneida County Jail, a savings of \$90.00/day for a total savings of \$698,490.00. Plus, the Program allows employed defendants to continue working. The Program also replaced 2,906 days of secure or non-secure detention for juveniles, saving the County \$927,001.00.
- 3) **Program Design and Staffing:** Reduces the burden on Social Services. One Probation Officer and two Probation Assistants install and monitor equipment and report compliance/violations to the Court.

Total Funding Requested: \$42,594.00

Account #: A3141

Oneida County Department Funding Recommendation: \$42,594.00

Proposed Funding Sources (Federal \$/State \$/County\$): State grant funds

Cost Per Client Served: \$3.80 per day per client

Past Performance Data: 85% reduction in recidivism which on Domicile Restriction - 81 successfully completed in 2017.

O.C. Department Staff Recommendation: The Probation Department highly recommends continuing to apply for State funding to enable this Program's continued success, as it provides a cost effective alternative to incarceration. It reduces County costs of placing these offenders in jail and provides the opportunity for community-based supervision and services.

<p><u>STATE AGENCY</u> Division of Criminal Justice Services 80 South Swan Street Albany, NY 12210</p>	<p><u>NYS COMPTROLLER'S NUMBER:</u> C523940 (Contract Number) <u>ORIGINATING AGENCY CODE:</u> 01490 - Division of Criminal Justice Services</p>
<p><u>GRANTEE/CONTRACTOR:</u> (Name & Address) Oneida County 800 Park Avenue Utica, NY 13501-2939</p>	<p><u>TYPE OF PROGRAMS:</u> OPCA ATI Classification <u>DCJS NUMBERS:</u> TC17523940 TCB6523940 <u>CFDA NUMBERS:</u></p>
<p><u>FEDERAL TAX IDENTIFICATION NO:</u> 156000460 <u>MUNICIPALITY NO:</u> (if applicable) 300100000000</p>	<p><u>INITIAL CONTRACT PERIOD:</u> FROM 07/01/2017 TO 06/30/2019 <u>FUNDING AMOUNT FROM INITIAL PERIOD:</u> \$85,188.00</p>
<p><u>STATUS:</u> Contractor is not a sectarian entry. Contractor is not a not-for-profit organization.</p>	<p><u>MULTI-YEAR TERM:</u> (if applicable): 3 1-year renewal options.</p>
<p><u>CHARITIES REGISTRATION NUMBER:</u> <input type="text"/> (Enter number or Exempt) if "Exempt" is entered above, reason for exemption. <u>N/A</u></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Contractor has ___ has not ___ timely filed with the Attorney General's Charities Bureau all required periodic or annual written reports.</p> </div>	<p><u>APPENDIX ATTACHED AND PART OF THIS AGREEMENT</u></p> <p><input checked="" type="checkbox"/> APPENDIX A Standard Clauses required by the Attorney General for all State contracts</p> <p><input checked="" type="checkbox"/> APPENDIX A1 Agency-specific Clauses</p> <p><input checked="" type="checkbox"/> APPENDIX B Budget</p> <p><input checked="" type="checkbox"/> APPENDIX C Payment and Reporting Schedule</p> <p><input checked="" type="checkbox"/> APPENDIX D Program Workplan</p> <p><input type="checkbox"/> APPENDIX F Guidelines for the Control and Use of Confidential Funds</p> <p><input type="checkbox"/> APPENDIX G Procedural Guidelines for the Control of Surveillance Equipment</p> <p><input checked="" type="checkbox"/> APPENDIX M</p> <p><input type="checkbox"/> Other (Identify)</p> <p>Appendix B-1 Program Performance Milestones and Costs</p>
<p>IN WITNESS THERE OF, the parties hereto have electronically executed or approved this AGREEMENT on the dates of their signatures.</p>	
<p>NYS Division of Criminal Justice Services BY: _____ Date: _____ Office of Program Development and Funding <u>State Agency Certification:</u> "In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract". GRANTEE: BY: Hon. Anthony J. Picente jr., County Executive Date: _____</p>	
<p>ATTORNEY GENERAL'S SIGNATURE _____ Title: _____ Date: _____</p>	<p>APPROVED, Thomas P. DiNapoli, State Comptroller _____ Title: _____ Date: _____</p>

APPROVED
ONEIDA COUNTY ATTORNEY

BY: _____
ASST ONEIDA COUNTY ATTORNEY

Award Contract**OPCA ATI Classification****Project No.****Grantee Name**

CL17-1028-D01

Oneida County

04/30/2018

AGREEMENT

STATE OF NEW YORK

AGREEMENT

This AGREEMENT is hereby made by and between the State of New York agency (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.

WITNESSETH:

WHEREAS, the STATE has the authority to regulate and provide funding for the establishment and operation of program services and desires to contract with skilled parties possessing the necessary resources to provide such services; and

WHEREAS, the CONTRACTOR is ready, willing and able to provide such program services and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services required pursuant to the terms of this AGREEMENT;

NOW THEREFORE, in consideration of the promises, responsibilities and covenants herein, the STATE and the CONTRACTOR agree as follows:

I. Conditions of Agreement

A. This AGREEMENT may consist of successive periods (PERIOD), as specified within the AGREEMENT or within a subsequent Modification Agreement(s) (Appendix X) Amendment. Each additional or superseding PERIOD shall be on the forms specified by the particular State agency, and shall be incorporated into this AGREEMENT.

B. Funding for the first PERIOD shall not exceed the funding amount specified on the face page hereof. Funding for each subsequent PERIOD, if any, shall not exceed the amount specified in the appropriate appendix amendment for that PERIOD.

C. This AGREEMENT incorporates the face page attached as presented in the Grants Management System (GMS) AWARD online printable report, and all of the marked appendices identified on the face page hereof.

D. For each succeeding PERIOD of this AGREEMENT, the parties shall prepare new appendices, to the extent that any require modification, and a Modification Agreement. Any terms of this AGREEMENT not modified shall remain in effect for each PERIOD of the AGREEMENT.

To modify the AGREEMENT within an existing PERIOD, the parties shall revise or complete the appropriate appendix form(s). Any change in the amount of consideration to be paid, change in scope, or change in term is subject to the approval of the Office of the State Comptroller. Any other modifications shall be processed in accordance with agency guidelines as stated in Appendix A-1.

E. The CONTRACTOR shall perform all services to the satisfaction of the STATE. The CONTRACTOR shall provide services and meet the program objectives summarized in the Program Workplan (Appendix D) in accordance with: provisions of the AGREEMENT; relevant laws, rules and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program.

F. If the CONTRACTOR enters into subcontracts for the performance of work pursuant to this AGREEMENT, the CONTRACTOR shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the STATE under this AGREEMENT. No contractual relationship shall be deemed to exist between the subcontractor and the STATE.

G. Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT.

II. Payment and Reporting

A. The CONTRACTOR, to be eligible for payment, shall submit to the STATE's designated payment office (identified in Appendix C) any appropriate documentation as required by the Payment and Reporting Schedule (Appendix C) and by agency fiscal guidelines, in a manner acceptable to the STATE.

B. The STATE shall make payments and any reconciliations in accordance with the Payment and Reporting Schedule (Appendix C). The STATE shall pay the CONTRACTOR, in consideration of contract services for a given PERIOD, a sum not to exceed the amount noted on the face page hereof or in the respective Appendix designating the payment amount for that given PERIOD. This sum shall not duplicate reimbursement from other sources for CONTRACTOR costs and services provided pursuant to this AGREEMENT.

C. The CONTRACTOR shall meet the audit requirements specified by the STATE.

III. Terminations

A. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the

CONTRACTOR.

B. The STATE may terminate the AGREEMENT immediately, upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT.

C. The STATE may also terminate this AGREEMENT for any reason in accordance with provisions set forth in Appendix A-1.

D. Written notice of termination, where required, shall be sent by personal messenger service or by certified mail, return receipt requested. The termination shall be effective in accordance with the terms of the notice.

E. Upon receipt of notice of termination, the CONTRACTOR agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the STATE.

F. The STATE shall be responsible for payment on claims pursuant to services provided and costs incurred pursuant to terms of the AGREEMENT. In no event shall the STATE be liable for expenses and obligations arising from the program(s) in this AGREEMENT after the termination date.

IV. Indemnification

A. The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the CONTRACTOR or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.

B. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claim, demand or application to or for any right based upon any different status.

V. Property

Any equipment, furniture, supplies or other property purchased pursuant to this AGREEMENT is deemed to be the property of the STATE except as may otherwise be governed by Federal or State laws, rules or regulations, or as stated in Appendix A-1.

VI Safeguards for Services and Confidentiality

A. Services performed pursuant to this AGREEMENT are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

B. Funds provided pursuant to this AGREEMENT shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.

C. Information relating to individuals who may receive services pursuant to this AGREEMENT shall be maintained and used only for the purposes intended under the contract and in conformity with applicable provisions of the laws and regulations, or specified in Appendix A-1.

Certified by - on

Award Contract**OPCA ATI Classification****Project No.****Grantee Name**

CL17-1028-D01

Oneida County

04/30/2018

APPENDIX A

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, 'the contract' or 'this contract') agree to be bound by the following clauses which are hereby made a part of the contract (the word 'Contractor' herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.
4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of

race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, 'the Records'). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the 'Statute') provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In 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.

13. **CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. **GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. **LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. **NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. **SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ('CPLR'), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. **MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. **OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100

Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, New York 10017
212-803-2414
email: mwbecertification@esd.ny.gov <http://esd.ny.gov.MWBE/directorySearch.html>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a 'procurement contract' as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the - Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012 - (Prohibited Entities List) posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

January, 2014

Certified by - on

Award Contract**OPCA ATI Classification****Project No.**

CL17-1028-D01

Grantee Name

Oneida County

04/30/2018

APPENDIX A1

AGENCY-SPECIFIC CLAUSES

1. If this Agreement exceeds \$50,000, it shall not take effect until it is executed by the parties hereto and approved by the Attorney General and the Comptroller of the State of New York. If this Agreement is for \$50,000 or less, it shall not take effect until it is executed by both parties.

2. This Agreement sets forth the entire understanding of the parties and may not be altered or amended except in format approved by DCJS and the NYS Office of the State Comptroller, and electronically signed by the parties hereto.

3. The failure of a party to enforce a contractual obligation shall not eliminate the other party's obligation to perform such contractual obligation.

4. In the event that any provision of this Agreement is determined to be null and void, all remaining provisions shall continue to be in full force and effect.

5. The Grantee must notify DCJS in writing of any change in the number, title, job duties or rate of remuneration of project staff which changes the Personal Service Project Budget line by 10 percent or under. Any change in the number, title, job duties or rate of remuneration of project staff which changes the Project Budget line more than 10 percent must be approved in writing by DCJS prior to implementation. The Grantee agrees to provide DCJS with resumes and supporting documentation upon request.

6. The Grantee shall submit detailed itemization forms for personal service and fringe benefit expenditures, in a format determined by DCJS, with any voucher and Fiscal Cost Reports requesting payment for expenditures.

7. The Grantee must maintain specific documentation as support for project related personal service expenditures, depending upon whether this grant contract project is supported by State or Federal funds:

A. For State funded grants:

For all Grantee's staff whose salaries are paid in whole or in part from grant funds provided under this Agreement, the Grantee shall maintain a time recording system which shows the time devoted to the grant project. The system shall consist of time sheets, computerized workload distribution reports, or equivalent systems. The time devoted to grant activities must be determinable and verifiable by DCJS. If time sheets are used, each must be signed by the individual and certified by the individual's supervisor in a higher level position at the end of each time reporting period.

B. For Federally funded grants:

Depending upon the nature or extent of personal service provided under this Agreement, the Grantee shall maintain semi-annual (or more frequent) personal service certifications and/or an after-the-fact personnel activity reporting system (or equivalent) which complies with the requirements of the Federal Office of Management and Budget (OMB) Circulars A-21, A-87 or A-122, as applicable:

1. OMB Circular A-21 [Item J, General provisions for selected items of cost] identifies documentation required for educational institutions as support for grant project personnel costs.
2. OMB Circular A-87 [Attachment B, Selected Items of Cost] identifies the documentation required for local government agencies as support for grant project personnel costs.
3. OMB Circular A-122 [Attachment B, Selected Items of Cost] identifies the documentation required for non-profit organizations as support for grant project personnel costs.

The most current version of these Federal OMB Circulars may be viewed on-line at: http://www.whitehouse.gov/omb/circulars_default/. The Grantee is to ensure full compliance with specific personal service documentation requirements of these OMB Circulars as applicable directly to the Grant recipient and to any sub-recipient (or collaborative agency/organization). Failure to do so may result in disallowance of costs upon audit.

8. Budget amendments are governed as follows:

A. Any proposed modification to the contract must be submitted for prior approval by DCJS and the NYS Office of the State Comptroller (OSC) when:

1. The amount of the modification is equal to or greater than ten percent of the total value of the contract for contracts of less than five million dollars; or
2. The amount of the modification is equal to or greater than five percent of the total value of the contract for contracts of five million dollars or more.

An Appendix X setting forth the proposed amendment must be electronically signed via the Grants Management System by the Grantee for approval by DCJS and the NYS Office of the State Comptroller before the next voucher and/or fiscal cost report will be approved.

B. For proposed modifications to the contract below the DCJS/OSC approval thresholds as set forth in 8 (A), the following shall apply:

1. The Grantee is not permitted to reallocate funds between Personal Service and Non-Personal Service budget categories without the prior approval of DCJS. A grant amendment setting forth the proposed reallocation must be approved by DCJS via the Grants Management System before the next voucher and/or fiscal cost report will be approved.
2. The Grantee is not permitted to reallocate funds between Non-Personal Service budget categories without the prior approval of DCJS when the amount of the modification is equal to or greater than ten percent of the category. A grant amendment setting forth the proposed reallocation must be approved by DCJS via the Grants Management System before the next voucher and/or fiscal cost report will be approved.
3. Prior approval by DCJS is not required for Non-Personal Service budget changes which are less than 10 percent. These changes, however, must be submitted to DCJS with the next voucher or fiscal cost report submission.

Requests for modifications must be made in writing by an authorized representative of the Grantee.

9. Space rental provided by this Agreement must be supported by a written lease, maintained on file and made available by the Grantee upon request.

10. The Grantee's request for travel, meals or lodging reimbursement shall be in accordance with Appendix B, Budget, and, unless prior written authorization has been received from DCJS, shall not exceed rates authorized by the NYS Office of the State Comptroller.

11. The Grantee's employment of a consultant must be supported by a written agreement executed by the Grantee and the consultant. A consultant is defined as an individual or organization hired by the Grantee for the stated purpose of accomplishing a specific task relative to the funded project. A copy of the agreement must be submitted to DCJS with the appropriate voucher for payment. All consultant services must be obtained in a manner that provides for fair and open competition. The Grantee shall retain copies of all solicitations seeking a consultant, written agreements and documentation justifying the cost and selection of the consultant. The Grantee further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Agreement and the Grantee must guarantee the work of the consultant as if it were its own.

A. The rate for a consultant should not exceed \$650 for an eight-hour day (not including travel and subsistence costs). A rate exceeding \$650 per eight-hour day requires prior written approval from DCJS and may be approved on a case-by-case basis where adequate justification is provided and expenses are reasonable and

allowable.

B. In addition to the above requirements, a Grantee that is a local government or a not-for-profit must adhere to the following guidelines at a minimum when obtaining consultant services:

1. Consultant services that cost up to \$999 under this grant agreement can be obtained at the Grantee's discretion.
2. Consultant services that cost between \$1,000 and \$4,999 under this grant agreement must be supported by at least three telephone quotes and a record created of such quotes.
3. Consultant services that cost between \$5,000 and \$9,999 under this grant agreement must be supported by at least three written quotes on a vendor's stationery and a record created of competitive procurement process utilized.
4. A Grantee obtaining consultant services that cost in excess of \$10,000 must use a competitive bidding process. Guidance may be obtained from DCJS. At a minimum, the competitive bidding process must incorporate the following: open, fair advertisement of the opportunity to provide services; equal provision of information to all interested parties; reasonable deadlines; sealed bids opened at one time before a committee who will certify the process; establishment of the methodology for evaluating bids before the bids are opened; and maintenance of a record of competitive procurement process.

C. A Grantee who proposes to obtain consultant services from a particular vendor without competitive bidding, must obtain the prior written approval of DCJS. The request for approval must be in writing and set forth, at a minimum, a detailed justification for selection and basis upon which the price was determined to be reasonable. Further, such consultant services must be in accordance with the guidelines, bulletins and regulations of the NYS Office of the State Comptroller, State Procurement Council, and the U.S. Department of Justice. A copy of DCJS' approval must also be submitted with the voucher for payment.

D. Notwithstanding the provisions of this paragraph, the Parties agree that DCJS' prior written approval is not required for the employment of a consultant when such employment is secured in relationship to a criminal matter as an expert witness, consultant or investigator. The Parties agree that the employment shall be supported by a written agreement and that all requests for reimbursement shall be supported by documentation identifying the criminal matter involved, services provided, time commitment and schedule. Such agreement and documentation shall be submitted to DCJS with the appropriate voucher for payment.

12. All procurements, other than consultant services, shall be conducted in the following manner. Written justification and documentation for all procurements must be maintained on file and made available upon request. Detailed itemization forms for non-personal service expenditures, in a format determined by DCJS, shall accompany each voucher and Fiscal Cost Report requesting payment. All procurements must be made in a fair and open manner and in accordance with the pre-determined methodology established for evaluating bids (e.g., lowest responsive bidder or best value).

A. A Grantee that is a state entity must make all procurements in accordance with State Finance Law Article 11, and any other applicable regulations.

B. A Grantee that is a local government must make procurements in accordance with General Municipal Law Article 5-A and any other applicable regulations.

C. In addition, a Grantee that is a not-for-profit must also make all procurements as noted below:

1. If the Grantee is eligible to purchase an item or service from a government contract or is able to purchase such item or service elsewhere at a lower than or equal price, then such purchase may be made immediately.
2. A Grantee may purchase any single piece of equipment, single service or multiples of each that cost up to \$999 at its discretion.
3. Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost between \$1,000 and \$4,999, a Grantee must secure at least three telephone quotes and create a record for audit of such

quotes.

4. Before purchasing any piece of equipment, service or multiples of each that have an aggregate cost between \$5,000 and \$9,999, the Grantee must secure at least three written quotes on a vendor's stationery and maintain a record of the competitive procurement process for audit purposes.

5. A Grantee spending in aggregate of \$10,000 and above must use a competitive bidding process. Guidance may be obtained from DCJS. At a minimum, the competitive bidding process must incorporate the following: open, fair advertisement of the opportunity to provide services; equal provision of information to all interested parties; reasonable deadlines; sealed bids opened at one time before a committee who will certify the process; establishment of the methodology for evaluating bids before the bids are opened; and maintenance of a record of competitive procurement process.

6. A Grantee who proposes to purchase from a particular vendor without competitive bidding must obtain the prior written approval of DCJS. The request for approval must be in writing and set forth, at a minimum, a detailed justification for selection and the basis upon which the price was determined to be reasonable. Further, such procurement must be in accordance with the guidelines, bulletins and regulations of the NYS Office of the State Comptroller, State Procurement Council, and the U.S. Department of Justice. A copy of DCJS' approval must also be submitted with the voucher for payment.

13. Applicable equipment purchased with funds provided by this Agreement as listed in Appendix B, Budget, shall be assigned a unique inventory number. The Grantee shall list all applicable equipment purchased with such funds in the GMS Property Module at the time the last program progress report is filed or sooner. Items of equipment costing less than \$500 do not need to be listed in the GMS Property Module although the Grantee is encouraged to maintain an internal inventory for audit purposes. Upon completion of all contractual requirements by the Grantee, DCJS will consider a request for continued use and possession of the equipment purchased with grant funds provided the equipment continues to be used in conducting a criminal justice program.

14. Grant funds may be expended only for purposes and activities set forth in this Agreement. Accordingly, the most important single requirement of accounting for this grant is the complete and accurate documentation of grant expenditures. If the Grantee receives funding from two or more sources, all necessary steps must be taken to ensure that grant-related transactions are not commingled. This includes, but is not limited to, the establishment of unique budget codes, a separate cost center, or a separate chart of accounts. Expenditures must be cross-referenced to supporting source documents (purchase orders, contracts, real estate leases, invoices, vouchers, timesheets, mileage logs, etc.). Grantee agrees it shall maintain adequate internal controls and adhere to Generally Accepted Accounting Principles for Government or Generally Accepted Accounting Principles for Not-for-Profit Organizations.

This Agreement may be subject to a fiscal audit by DCJS to ascertain financial compliance with Federal and/or State laws, regulations, and guidelines applicable to this Agreement. Such audits may include review of the Grantee's accounting, financial, and reporting practices to determine compliance with the Agreement and reporting requirements; maintenance of accurate and reliable original accounting records in accordance with governmental accounting standards as well as generally accepted accounting principles; and specific compliance with allowable cost and expenditure documentation standards prescribed by applicable Federal, State, and DCJS guidelines.

15. Where advance payments are approved by DCJS, the Grantee agrees to expend the advance payments in accordance with the purposes set forth in Appendix D and consistent with Appendix B.

16. DCJS reserves the right to suspend program funds if the Grantee is found to be in noncompliance with the provisions of this Agreement or other grant agreements between the Grantee and DCJS or, if the Grantee or principals of the Grantee are under investigation by a New York State or local law enforcement agency for noncompliance with State or Federal laws or regulatory provisions or, if in DCJS' judgment, the services provided by the Grantee under the Agreement are unsatisfactory or untimely. DCJS shall provide the Grantee with written notice of noncompliance. Upon the Grantee's failure to correct or comply with the written notice by DCJS, DCJS reserves the right to terminate this Agreement, recoup funds and recover any assets purchased with the proceeds of this Agreement. DCJS reserves the right to use approved grant related expenditures to offset disallowed expenditures from any grant funded through its offices upon issuance of a final audit report and appropriate notification to the Grantee, or upon reasonable assurance that the Grantee is not in compliance with

Agreement terms.

17. The Grantee agrees, as a material condition of the Agreement, to comply with all applicable provisions of the Hatch Act (5 U.S.C. "1501 et seq.) as amended.

18. Program income earned by the Grantee during the funding period as a direct result of the grant award must be reported in writing to DCJS, in addition to any other statutory reporting requirements. This includes income received from seized and forfeited assets and cash, as well as: sale of grant purchased property; royalties; fees for services; and registration/tuition fees. Interest earned on grant funds is not program income unless specified in Appendix D. The Grantee agrees to report the receipt and expenditures of grant program income to DCJS. All income, including interest, generated by the use of these grant funds will be used to enhance the grant project.

19. If applicable, the Grantee agrees to obtain not-for-profit status, a federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish DCJS with this information as soon as it is available.

20. Unless otherwise specified, in accordance with the State Finance Law, the availability of all State funds for liabilities already incurred thereunder shall cease on September 15th of the year following the fiscal year in which the funds were appropriated, unless such funds are reappropriated by the New York State Legislature. To ensure payment, vouchers must be received by DCJS by August 1st of the year following the fiscal year in which the funds were appropriated.

21. The Grantee will submit program progress reports to DCJS via the GMS system and additional information or amended data as required in Appendix D.

A. Program progress reports will be due on the last day of the month following the end of each calendar quarter or on an alternate schedule as prescribed in Appendix D. The first program progress report will be due on the last day of the month following the last day of the calendar quarter from the start date of the contract.

Program progress reports thereafter will continue to be made until such time as the funds subject to this Agreement are no longer available, have been accounted for, and/or throughout the Agreement period or project duration.

Calendar quarters, for the purposes of making program progress reports, shall be as follows:

Calendar Quarter
Report Due

January 1 - March 31
April 30

April 1 - June 30
July 31

July 1 - September 30
October 31

October 1 - December 31
January 31

B. The final progress report will summarize the project's achievements as well as describe activities for that quarter.

22. If for any reason the State of New York or the federal government terminates its appropriation through DCJS or fails to pay the full amount of the allocation for the operation of this program, this Agreement may be terminated or reduced at the discretion of DCJS, provided that no such reduction or termination shall apply to allowable costs already incurred by the Grantee where funds are available to DCJS for payment of such costs. Upon termination or reduction of the Agreement, all remaining funds paid to the Grantee that are not subject to allowable costs already incurred by the Grantee shall be returned to DCJS. In any event, no liability shall be

incurred by DCJS or by the State of New York beyond monies available for the purposes of this Agreement. The Grantee acknowledges that any funds due to DCJS because of disallowed expenditures after audit shall be its responsibility.

23. If Appendix B, Program Budget, makes provisions for overtime payment, the Grantee agrees to submit vouchers for such payment of overtime charges by the last day of the month following the last day of the quarter for the reporting period. The Grantee further agrees to limit overtime earnings to no more than 25 percent (25%) of the employee's annual personnel cost (salary plus fringe benefits) during the term of this Agreement. No reimbursements for overtime charges in excess of this 25 percent (25%) limit will be made unless prior written approval has been obtained from DCJS.

24. None of the goals, objectives or tasks set forth in Appendix D shall be subawarded to another organization without specific prior written approval by DCJS. Where the intention to make subawards is clearly indicated in the application, DCJS' approval is deemed given, if these activities are funded as proposed.

If this Agreement makes provisions for the Grantee to subgrant funds to other recipients, the Grantee agrees that all subgrantees shall be held accountable by the Grantee for all terms and conditions set forth in this Agreement. The Grantee further agrees that it shall assume sole and complete responsibility for fulfilling all the obligations set forth in the Agreement and the Grantee must guarantee the work of any subgrantee as if it were its own.

The Grantee agrees that all subgrantee arrangements shall be formalized in writing between the parties involved. The writing must, at a minimum, include the following information:

Activities to be performed;

Time schedule;

Project policies;

Other policies and procedures to be followed;

Dollar limitation of the Agreement;

Appendix A, Appendix A-1, Appendix C, Appendix M, Certified Assurances for Federally Supported Projects, Certification Regarding Lobbying, Debarment and Suspension and any special conditions set forth in the Agreement; and

Applicable Federal and/or State cost principles to be used in determining allowable costs.

The Grantee will not be reimbursed for subgranted funds unless all expenditures by a subgrantee are listed on certification forms. Backup documentation for such expenditures must be made available upon request. All expenditures must be programmatically consistent with the goals and objectives of this Agreement and with the financial plan set forth in Appendix B.

25. Federal Funds

A. In accordance with Federal requirements, a Grantee which receives during its fiscal year \$500,000 or more of Federal funds (including pass-through and direct) from all sources, including this Agreement, must agree to have an independent audit of such Federal funds conducted in accordance with the Federal Office of Management and Budget (OMB) Circular A-133. OMB Circular A-133 further requires that the final report for such audit be completed within nine months of the end of the Grantee's fiscal year. The Grantee further agrees to provide one copy of such audit report(s) to DCJS within nine months of the end of its fiscal year(s).

B. In accordance with Federal requirements, a Grantee receiving Federal pass-through funds must also agree to comply with the terms and conditions of any and all applicable Federal OMB Circulars. For the convenience of the Grantee, the following OMB circulars are noted as the most common applicable to federal funds passed through DCJS:

OMB Circular A 21, Cost Principles for Educational Institutions;

OMB Circular A 87, Cost Principles for State, Local and Indian Tribal Governments;

OMB Circular A 102, Grants and Cooperative Agreements With State and Local Governments;

OMB Circular A 110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non Profit Organizations; and

OMB Circular A 122, Cost Principles for Non Profit Organizations.

The Parties agree that, dependent upon the status of the Grantee; additional circulars may also be applicable. The most current version of all Federal OMB Circulars may be viewed on-line at:
http://www.whitehouse.gov/omb/circulars_default/.

The Grantee is to ensure full compliance with all cost documentation requirements of OMB Circulars as applicable directly to the Grant recipient and to any sub-recipient (or collaborative agency/organization). Failure to do so may result in disallowance of costs upon audit.

26. Any creative or literary work developed or commissioned by the Grantee with grant support provided by DCJS shall become the property of DCJS, entitling DCJS to assert a copyright therein, unless the parties have expressly agreed otherwise in a written instrument signed by them.

A. If DCJS shares its right to copyright such work with the Grantee, DCJS reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use: (a) the copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and (b) any rights of copyright to which a Grantee, Subgrantee, or a Contractor purchases ownership with grant support.

B. If the grant support provided by DCJS is federally sponsored, the federal awarding agency also reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use: (a) the copyright in any work developed under a grant, subgrant or contract under a grant or subgrant; and (b) any rights of copyright to which a Grantee, Subgrantee, or a Contractor purchases ownership with such grant support.

C. The Grantee shall submit one copy of all reports and publications resulting from this Agreement to DCJS. Any publications must contain the following statement, in visible print, of any document generated pursuant to a grant administered by DCJS:

This project was supported by a grant administered by the New York State Division of Criminal Justice Services. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the Division of Criminal Justice Services.

27. Original records must be retained for six years following the submission of the final claim against this Agreement. In the event of a fiscal audit, the project manager or a designated responsible party must be prepared to produce source documents that substantiate claimed expenditures. DCJS requires that all documentation materials be organized, readily accessible, and cross-referenced to the Fiscal Cost Reports previously submitted. If fiscal records, such as purchase orders, vouchers, payroll registers, payroll tax records, etc., are to be kept in a fiscal office which is separate and apart from the program office, the project manager must have access to these original records. Such fiscal records must readily identify the associated project. In addition, a separate set of records must be retained for each project year.

28. Grant-related expenditures shall be reported on Fiscal Cost Reports and detailed itemization forms provided

by DCJS. These reports must be prepared periodically as defined in Appendix C of this Agreement. All reported expenditures must reconcile to the program accounting records. Prior period adjustments shall be reported in the same accounting period that the correction was made.

29. General Responsibility Language

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of the New York State Division of Criminal Justice Services or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

30. Suspension of Work (for Non-Responsibility)

The Commissioner of the New York State Division of Criminal Justice Services or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of the New York State Division of Criminal Justice Services or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

31. Termination (for Non-Responsibility)

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Agency officials or staff, the Contract may be terminated by the Commissioner of the New York State Division of Criminal Justice Services or his or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of the New York State Division of Criminal Justice Services or his or her designee to be non-responsible. In such event, the Commissioner of the New York State Division of Criminal Justice Services or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

VER 05/13/2013

Certified by - on

Award Contract

OPCA ATI Classification

Project No.
CL17-1028-D01

Grantee Name
Oneida County

04/30/2018

APPENDIX B - Budget Summary by Participant

Oneida County - Version 1

#	All Other Expenses	Number	Unit Cost	Total Cost	Grant Funds	Matching Funds
1	CL16- Oneida County 13A Classification - 7/01/18 - 6/30/19- Based on maximum state reimbursement amount in Appendix B1	1	\$42,594.00	\$42,594.00	\$42,594.00	\$0.00
Justification: See attached Appendix B1 Program Performance Milestones and Costs.						
Total				\$42,594.00	\$42,594.00	\$0.00

Total Project Costs	Total Cost	Grant Funds	Matching Funds
	\$42,594.00	\$42,594.00	\$0.00

Oneida County Probation Department

Total Contract Costs	Total Cost	Grant Funds	Matching Funds
	\$42,594.00	\$42,594.00	\$0.00

Award Contract**OPCA ATI Classification****Project No.****Grantee Name**

CL17-1028-D01

Oneida County

04/30/2018

APPENDIX C

PAYMENT AND REPORTING SCHEDULE

NOTE: Additional payment provisions associated with the schedule(s) below are detailed in Appendix A-1.

For All Grantees:

1. The Grantee agrees that this is a reimbursement-based contract; an advance may be provided through Appendix D (Special Conditions). All requests for reimbursement must reflect actual costs that have been disbursed or items received by the Grantee. A purchase order issued without receipt of the items or service is not eligible for reimbursement.
2. Grantees must submit all required fiscal reports, supporting documentation and program progress reports. Failure to meet these requirements will result in the rejection of associated vouchers. Failure to submit the final program report, or interim progress report designated as the final report, may result in a disallowance of 25 percent (25%) of the grant amount. The Grantee must also refund all unexpended advances (see item three below.) Final vouchers, reimbursement payment and reports must be submitted by the last day of the month following the end of the grant contract period. Failure to voucher within this period may result in the loss of grant funds.
3. If at the end of this grant contract there remains any unexpended balance of the monies advanced under this contract in the possession of the Grantee, the Grantee shall submit a certified check or money order for the unexpended balance payable to the order of the State of New York and return it to the DCJS Office of Financial Services with its final fiscal cost report by the last day of the month following termination of this grant contract.
4. Vouchers shall be submitted in a format acceptable to DCJS and the Office of the State Comptroller (see <http://www.criminaljustice.ny.gov/ofpa/forms.htm>). Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the Project Budget (Appendix B) and during the contract period. When submitting a voucher, such voucher shall also be deemed to certify that: a) the payments requested do not duplicate reimbursement from other sources of funding; and b) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Grantee for this program. Requirement b) does not apply to Legislative sponsored State grants.
5. For purposes of prompt payment provisions, the Designated Payment Office for the processing of all vouchers is the DCJS Office of Financial Services. Payment of grant vouchers shall be made in accordance with the provisions of Article XI-A of the State Finance Law. Payment shall be preceded by an inspection period of 15 business days which shall be excluded from calculations of the payment due date for purposes of determining eligibility for interest payments. The Grantee must notify the Office of Financial Services in writing of a change of address in order to benefit from the prompt payment provision of the State Finance Law. When progress reports are overdue or the required MWBE reporting is not included, vouchers will not be eligible for prompt payment.
6. Timely and properly completed New York State vouchers, with supporting documentation when required, shall be submitted to:

NYS Division of Criminal Justice Services
Office of Financial Services
80 S. Swan St.
Albany, NY 12210

7. Payment Schedule

PAYMENT PAYMENT DUE DATE

1 Pending appropriation, 30 days after commencement date of contract with proper documentation or upon receipt of proper documentation, whichever is later.

2-4 Quarterly

A not-for-profit Grantee operating on a multi-year contract may voucher for an optional fifth quarter advance against the succeeding year's appropriation, pursuant to NYS Finance Law, Section 179-u.

All submitted vouchers will reflect the Grantee's actual expenditures and will be accompanied by supporting detailed itemizations of personal service and non-personal service expenditures and other documentation as required, and by a fiscal cost report for the reporting period. DCJS reserves the right not to release subsequent grant awards pending Grantee compliance with this Agreement. In the event that any expenditure for which the Grantee has been reimbursed by grant funds is subsequently disallowed, DCJS in its sole discretion may reduce the voucher payment by the amount disallowed. If necessary, the Grantee may be required to submit a final budget reallocation. Fiscal cost reports showing grant expenditures and/or obligations for each quarter of the grant must be submitted by the last day of the month after the last day of the reporting period.

Advance payments shall be permitted as specified in Appendix A-1, and in the amount specified in Appendix D (Special Conditions).

Payment requests need to include the following documents as required:

Detailed Itemization of Personal Service Expenditures
Detailed Itemization of Non-Personal Service Expenditures
Detailed Itemization of Consultant Expenditures
Expert witness agreement and supporting documentation
Voucher and Fiscal Cost Report signed
Written documentation of all required DCJS prior approvals as follows:

- DCJS approval of non-competitive consultant.
- DCJS approval of non-competitive vendor for services.
- DCJS approval of consultant services reimbursement greater than \$650 per eight hour day.
- DCJS approval of change to Personal Services by more than 10 percent.
- DCJS approval to exceed NYS Office of the State Comptroller travel, meals and lodging rates.
- DCJS approval to subaward to another organization.
- DCJS approval for overtime payments exceeding 25 percent of an employee's annual personnel cost.
- DCJS and NYS Office of the State Comptroller approval to modify the budget by more than 10 percent of the total value of the contract if the contract is less than five million.
- DCJS and NYS Office of the State Comptroller approval to modify the budget by more than 5 percent of the total value of the contract if the contract is five million or more.
- DCJS approval to reallocate funds between Personal Services and Non Personal Services.

8. CONTRACT PAYMENTS: Contractor shall provide complete and accurate billing invoices to the agency in order to receive payment. Billing invoices submitted to the agency must contain all information and supporting documentation required by the Contract, the Agency and the State Comptroller. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at www.osc.state.ny.us/epay/index.htm, or by email at epayments@osc.state.ny.us. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

VER05/13/2013
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Award Contract

OPCA ATI Classification

Project No.**Grantee Name**

CL17-1028-D01

Oneida County

04/30/2018

APPENDIX D - Work Plan**Goal**

The Oneida County Domicile Restriction program's goal is to reduce recidivism, promote public safety and enhance defendant/offender accountability through community corrections. Work Plan Term: 7/1/2018-6/30/2019.

Objective #1

Place individuals into the Domicile Restriction program per Appendix B-1.

Task #1 for Objective #1

The following tasks are associated with this objective:

CASES ACCEPTED FOR ELECTRONIC MONITORING:

1. All probation officers conducting pre-sentence investigations recommending a split-sentence will state in the evaluative analysis the defendant is eligible for domicile restriction in lieu of incarceration. Probation orders and conditions signed by the judge would indicate the period of domicile restriction imposed;
2. The sentencing courts in which a pre-sentence investigation is not ordered will notify the Domicile Restriction program with a court order;
3. All probation officers supervising criminal court sentenced offenders will notify the Domicile Restriction program if during a violation of probation matter before the court a graduated sanction of Domicile Restriction is recommended in lieu of incarceration. The court order by the judge would indicate the period of domicile restriction.

Maintain the following case file documentation: a. A copy of the pre-sentence investigation, orders and conditions of probation and a court ordered Domicile Restriction form.
b. A copy of the court ordered Domicile Restriction form for b and c above.

Performance Measure

- 1 The number of individuals placed in the program.

Objective #2

Participants will successfully complete the program per Appendix B-1.

Task #1 for Objective #2

The following tasks are associated with this objective:

CASES SATISFACTORILY COMPLETING ELECTRONIC MONITORING:

1. All defendants, as part of a split-sentence or conditional discharge in lieu of incarceration in which a pre-sentence was submitted to County, City or Justice Courts, will have electronic monitoring equipment installed on their person, in their home and entered into the department's computer within 24 hours by program staff during the business week. The court will be notified if this is not possible in order to amend the court order;
2. All defendants ordered by the Justice Courts, whether a pre-sentence investigation is/is not conducted, will be processed as soon as the disposition and order are received via mail;
3. All defendants will be monitored either by program staff during business hours or through the computer and, as applicable, with DCJS's supervision rule;
4. The program staff will file misconduct reports with the sentencing court within 24 hours during the business week for non-compliance;
5. If the court orders, the defendant will be reinstated based on the violation;
6. The sentencing court will be notified, in writing, of successful completion of the Domicile Restriction condition.

Maintain the following case file documentation:

- All defendants will have a case file to include PSI and the court-ordered;
- All defendants will have a daily contact sheet or computer driven report of contacts. If in violation, a notation of appropriate actions;
- A successfully completed form sent to the judge.

Performance Measure

- 1 The number of individuals successfully completing the program.

Objective #3

To provide additional program related data to OPCA.

Task #1 for Objective #3

Gather and provide additional program data as applicable:

- 1) Number of individuals screened;
- 2) Number of individuals interviewed;
- 3) Number of individuals assessed;
- 4) Number of individuals evaluated;
- 5) Total number of individuals under supervision by RUS program (number carried over from previous quarter plus all new releases);
- 6) Total number FTA with warrant;
- 7) Number of persons terminated unsatisfactorily;
- 8) Number administratively discharged;
- 9) Number of satisfactory completions;
- 10) Number of individuals placed in program;
- 11) Other data as requested.

Performance Measure

Number of individuals screened; interviewed; assessed; evaluated; under RUS supervision; FTA with 1 warrant; terminated unsatisfactorily; administratively discharged; satisfactorily completed; placed in the program (as applicable).

Objective #4

To implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 Minority and Women-Owned Business Enterprises Regulations (MWBE) by providing meaningful participation by NYS Certified MWBEs, as defined as subcontractors or suppliers. These requirements include equal employment opportunities for minority group members and women.

Task #1 for Objective #4

Utilize good faith efforts, pursuant to 5 NYCRR §142.8 of the New York State Executive Law Article 15-A, to meet the maximum feasible portion of the organization's established MWBE goals.

Performance Measure

Identify if you are on target to meet the established Minority and Women Business Enterprise goals by the 1 end of the contract period. **NOTE: This performance measure requires a yes or no response, at a minimum.**

Award Contract

OPCA ATI Classification

Project No.**Grantee Name**

CL17-1028-D01

Oneida County

04/30/2018

Award Conditions

Upon approval of this grant by the Office of the State Comptroller, or DCJS for "T" contract only, the Grantee is authorized to initially voucher for advance payment of those prospective expenses previously approved by DCJS not to exceed \$0.00 from the total contracted amount. Consistent with paragraph 15 of Appendix A-1 of this grant contract, vouchers for advance payments for the purchase of equipment and supplies must be supported by a copy of the purchase order.

APPENDIX D - Special Conditions**Special Conditions - Classification****A. PROGRAM SERVICES**

1. The CONTRACTOR agrees to promptly notify the STATE of any critical incidents involving the respective PROGRAM, its clients/participants or staff, as well as negative media reports, as required by the STATE.
2. The CONTRACTOR shall provide case specific data as called for and delineated by DCJS. Identification of client/participant names and disclosure of other PROGRAM records to the STATE shall be pertinent to performance under this AGREEMENT.

B. TERMINATION

1. The STATE shall have the right to terminate this AGREEMENT early for: (i) unavailability of funds; (ii) cause; (iii) without cause; or (iv) upon mutual consent.
2. The STATE may terminate this AGREEMENT if federal/state appropriation authorizations lapse and are not renewed, continued or reenacted or if funds are no longer made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this AGREEMENT shall remain in effect for the duration of such encumbrances or availabilities unless this AGREEMENT is otherwise terminated by the STATE. Although the liquidity of encumbrances or availability of funds may be affected by budgetary hiatuses, a STATE budgetary hiatus will not by itself be construed to lapse this AGREEMENT, provided any necessary STATE appropriations or other funding authorizations therefore are eventually enacted.
3. The STATE may terminate the AGREEMENT immediately for cause upon written notice of termination to the CONTRACTOR: (i) if the STATE determines that the CONTRACTOR and/or any other identified SERVICE PROVIDER(S) fail to comply with the terms and conditions of this agreement and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT, including but not limited for reason of vendor responsibility or failure to accurately disclose or (ii) upon a disapproved Service Plan.
4. The STATE reserves the right to terminate this AGREEMENT in the event it is found that the certification filed by the CONTRACTOR in accordance with New York State Finance Law §139 k was intentionally incomplete. Upon such finding, the STATE may exercise its termination right by providing written notification to the CONTRACTOR in accordance with the written notification terms of this AGREEMENT.
5. The STATE may only invoke its right to terminate without cause provided the STATE has given 90 days or more written notice to the CONTRACTOR, except with respect to contractual language contained herein that gives the STATE the general right to terminate at any time.
6. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR or by the DIVISION serving thirty (30) calendar days written notice upon the other party, as specified by the STATE.

C. SAFEGUARDS FOR SERVICES AND CONFIDENTIALITY

1. The CONTRACTOR agrees that all records on this PROGRAM shall be safeguarded and not be open to indiscriminate public review. Towards this end, the CONTRACTOR shall establish written policies and procedures as to maintenance, security, retention and disposition of such records. The CONTRACTOR shall agree to maintain complete confidentiality of all information concerning applicants, employees, PROGRAM clients/participants, and their families which it may obtain during the course of performing the services of this AGREEMENT unless required in the performance of this AGREEMENT or otherwise authorized by law. Except as authorized by law and for audit purposes as noted above and for provision of PROGRAM services, the CONTRACTOR will not release any of said information, including names and addresses, without prior written permission from the STATE. Records retention and disposition shall be in accordance with this AGREEMENT and any applicable Federal or State laws, rules or regulations. The STATE shall have access to all CONTRACTOR records relating to the PROGRAM. Information relating to individuals who may receive services pursuant to this CONTRACTOR shall be maintained and safeguarded in conformity with the applicable provisions of laws, regulations and policies and directives of the STATE.

2. The CONTRACTOR specifically agrees to comply with New York State's "Information Security Breach and Notification Act" as set forth in State Technology Law Section 208 and General Business Law 899 aa. The CONTRACTOR shall promptly notify the STATE where there is reasonable belief of breach of security, unauthorized access or unauthorized release of personal computer data containing personal information and take appropriate action with respect to notification of affected individuals and to other required state agencies consistent with such Act. CONTRACTOR shall be liable for the costs associated with such breach if caused by CONTRACTOR'S negligent or willful acts or omissions, or the negligent or willful acts or omissions of CONTRACTOR'S agents, officers, employees or subcontractors.

D. FUNDING

1. For performance based CONTRACTS, the CONTRACTOR, shall promptly provide written notice to the STATE, via a separate letter, of special circumstances experienced by the PROGRAM in achieving its milestones and outcomes. Notwithstanding any fiscal provisions relative to reimbursement for milestones and outcomes, the CONTRACTOR may request written approval of the STATE to adjust a milestone and/or outcome to compensate for over achievement of PROGRAM participants. The reimbursement will be at the agreed upon participant cost for the milestone and/or outcome and in no event exceed the total maximum costs delineated in Appendix B or B1, where applicable.

2. Reimbursement to the CONTRACTOR will be made after the CONTRACTOR submits vouchers and supporting documents as established by the STATE and the CONTRACTOR is otherwise adhering to the AGREEMENT, including submission of necessary reporting documentation in a timely manner. Programmatic data shall be completed and submitted in accordance with timeframes and procedures established by the STATE. Failure to timely report may result in termination of contractual services. The CONTRACTOR agrees to provide detailed fiscal and other programmatic information in keeping with STATE instructions. GMS progress reports now incorporate data previously obtained from OPCA Quarterly Reporting Forms.

Program progress reports and vouchers with fiscal documentation will be due on the last day of the month following the end of each calendar quarter. The first program progress report will be due on the last day of the month following the last day of the calendar quarter from the start date of the contract.

In addition to the progress reports which are required, for purposes of this grant award, the CONTRACTOR shall also submit, if applicable, quarterly PROGRAM data on Tracking Logs, to OPCA at dcjsopcaati@dcjs.ny.gov consistent with GMS progress report due dates.

Funds will be reimbursed to the CONTRACTOR within 30 days of receipt of the claim if the claim and supporting documentation are in order and the CONTRACTOR is otherwise adhering to the terms and conditions of the AGREEMENT.

3. A not for profit organization operating on a multi year contract may, at the sole source discretion of the STATE, be issued a fifth quarter advance against the succeeding year's appropriation, pursuant to State Finance Law, Section 179 u.

4. Vouchers and supporting documentation should be sent to:

**NYS Division of Criminal Justice Services
Office of Finance
80 South Swan Street
Albany, NY 12210**

5. Reconciliation shall be based upon services provided by the CONTRACTOR and payments made by the STATE consistent with the terms of this AGREEMENT and may occur at any time during the AGREEMENT and shall occur upon termination of the AGREEMENT. The CONTRACTOR shall refund any overpayments made pursuant to this AGREEMENT within ninety (90) calendar days of written notification by the STATE unless written approval is obtained by the STATE.

6. This contract may be extended, increased, decreased, terminated, renewed, amended or renegotiated at the discretion of the Commissioner of the Division of Criminal Justice Services.

7. The CONTRACTOR agrees that these grant funds will be used to supplement and not supplant existing funds and services.

Notwithstanding the language in section D, number 2 of the contract special conditions, the following reporting procedures will take effect July 1, 2012.

1. Quarterly Reports - All ATI programs are required to submit Quarterly Reports on the schedule indicated in Appendix A-1. Effectively July 1, 2012, 13-A funded programs are no longer required to submit these reports using the GMS. Rather, the DCJS Office of Probation and Correctional Alternatives (OPCA) quarterly report template will be sent directly to each program upon contract execution. If the CONTRACTOR utilizes CASELOAD EXPLORER (CE), the CE will generate the report for you. The completed report should be submitted directly to dcjsopcaati@dcjs.ny.gov. Once received, OPCA will attach the completed report onto the GMS.

2. Tracking Logs - All County OPCA 13-A ATI programs, with the exception of Pretrial Programs, are required to submit Tracking Logs according to the same quarterly reporting schedule. The OPCA Tracking Log template will be sent directly to each CONTRACTOR upon contract execution. The completed Tracking Logs should be submitted to dcjsopcaati@dcjs.ny.gov.

No materials, items or publications resulting from award activities may use the DCJS logo or provide any attribution to DCJS in any form, without prior approval from the Commissioner of DCJS or his designee. Requests for such approval must be submitted in writing to DCJS's Agency Council at least 30 days before requested use. Determinations of such requests will be made by the DCJS Commissioner on a case-by-case basis.

Special Conditions - Classification

A. PROGRAM SERVICES

1. The CONTRACTOR agrees to promptly notify the STATE of any critical incidents involving the respective PROGRAM, its clients/participants or staff, as well as negative media reports, as required by the STATE.

2. The CONTRACTOR shall provide case specific data as called for and delineated by DCJS. Identification of client/participant names and disclosure of other PROGRAM records to the STATE shall be pertinent to performance under this AGREEMENT.

B. TERMINATION

1. The STATE shall have the right to terminate this AGREEMENT early for: (i) unavailability of funds; (ii) cause; (iii) without cause; or (iv) upon mutual consent.

2. The STATE may terminate this AGREEMENT if federal/state appropriation authorizations lapse and are not renewed, continued or reenacted or if funds are no longer made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this AGREEMENT shall remain in effect for the duration of such encumbrances or availabilities unless this AGREEMENT is otherwise terminated by the STATE. Although the liquidity of encumbrances or

availability of funds may be affected by budgetary hiatuses, a STATE budgetary hiatus will not by itself be construed to lapse this AGREEMENT, provided any necessary STATE appropriations or other funding authorizations therefore are eventually enacted.

3. The STATE may terminate the AGREEMENT immediately for cause upon written notice of termination to the CONTRACTOR: (i) if the STATE determines that the CONTRACTOR and/or any other identified SERVICE PROVIDER(S) fail to comply with the terms and conditions of this agreement and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT, including but not limited for reason of vendor responsibility or failure to accurately disclose or (ii) upon a disapproved Service Plan.

4. The STATE reserves the right to terminate this AGREEMENT in the event it is found that the certification filed by the CONTRACTOR in accordance with New York State Finance Law §139 k was intentionally incomplete. Upon such finding, the STATE may exercise its termination right by providing written notification to the CONTRACTOR in accordance with the written notification terms of this AGREEMENT.

5. The STATE may only invoke its right to terminate without cause provided the STATE has given 90 days or more written notice to the CONTRACTOR, except with respect to contractual language contained herein that gives the STATE the general right to terminate at any time.

6. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR or by the DIVISION serving thirty (30) calendar days written notice upon the other party, as specified by the STATE.

C. SAFEGUARDS FOR SERVICES AND CONFIDENTIALITY

1. The CONTRACTOR agrees that all records on this PROGRAM shall be safeguarded and not be open to indiscriminate public review. Towards this end, the CONTRACTOR shall establish written policies and procedures as to maintenance, security, retention and disposition of such records. The CONTRACTOR shall agree to maintain complete confidentiality of all information concerning applicants, employees, PROGRAM clients/participants, and their families which it may obtain during the course of performing the services of this AGREEMENT unless required in the performance of this AGREEMENT or otherwise authorized by law. Except as authorized by law and for audit purposes as noted above and for provision of PROGRAM services, the CONTRACTOR will not release any of said information, including names and addresses, without prior written permission from the STATE. Records retention and disposition shall be in accordance with this AGREEMENT and any applicable Federal or State laws, rules or regulations. The STATE shall have access to all CONTRACTOR records relating to the PROGRAM. Information relating to individuals who may receive services pursuant to this CONTRACTOR shall be maintained and safeguarded in conformity with the applicable provisions of laws, regulations and policies and directives of the STATE.

2. The CONTRACTOR specifically agrees to comply with New York State's "Information Security Breach and Notification Act" as set forth in State Technology Law Section 208 and General Business Law 899 aa. The CONTRACTOR shall promptly notify the STATE where there is reasonable belief of breach of security, unauthorized access or unauthorized release of personal computer data containing personal information and take appropriate action with respect to notification of affected individuals and to other required state agencies consistent with such Act. CONTRACTOR shall be liable for the costs associated with such breach if caused by CONTRACTOR'S negligent or willful acts or omissions, or the negligent or willful acts or omissions of CONTRACTOR'S agents, officers, employees or subcontractors.

D. FUNDING

1. Grant amendment requests (GAR) for performance-based contracts: Notwithstanding any provisions of Appendix A-1 or Appendix C of this AGREEMENT relating to the submission of vouchers or requests for payment for milestone achievement within 30 days of the close of each contract quarter, the CONTRACTOR may request written approval of the STATE to adjust any milestones and or outcomes to reflect actual achievements of milestones and or outcomes. For performance-based CONTRACTS, the CONTRACTOR shall notify the STATE DCJS Office of Program Development and Funding (OPDF) no later than 45 calendar days after the end of the last quarter of a contract budget term. If the reallocation request is approved, the reimbursement will be at the agreed upon cost for the milestones and or outcomes, and in no event exceed the total maximum award amount delineated in the contract for such contract budget term. The reallocation request must also include the completed Grant Amendment Request (GAR) form. The CONTRACTOR may request

from OPDF within the aforementioned 45 day window an extension of the GAR submission period due to extenuating circumstances. DCJS reserves the right to deny all or part of a GAR reallocation and or extension request.

2. Reimbursement to the CONTRACTOR will be made after the CONTRACTOR submits vouchers and supporting documents as established by the STATE and the CONTRACTOR is otherwise adhering to the AGREEMENT, including submission of necessary reporting documentation in a timely manner. Programmatic data shall be completed and submitted in accordance with timeframes and procedures established by the STATE. Failure to timely report may result in termination of contractual services. The CONTRACTOR agrees to provide detailed fiscal and other programmatic information in keeping with STATE instructions. GMS progress reports now incorporate data previously obtained from OPCA Quarterly Reporting Forms.

Program progress reports and vouchers with fiscal documentation will be due on the last day of the month following the end of each calendar quarter. The first program progress report will be due on the last day of the month following the last day of the calendar quarter from the start date of the contract.

In addition to the progress reports which are required, for purposes of this grant award, the CONTRACTOR shall also submit, if applicable, quarterly PROGRAM data on Tracking Logs, to OPCA at dcjsopcaati@dcjs.ny.gov consistent with GMS progress report due dates.

Funds will be reimbursed to the CONTRACTOR within 30 days of receipt of the claim if the claim and supporting documentation are in order and the CONTRACTOR is otherwise adhering to the terms and conditions of the AGREEMENT.

3. A not for profit organization operating on a multi year contract may, at the sole source discretion of the STATE, be issued a fifth quarter advance against the succeeding year's appropriation, pursuant to State Finance Law, Section 179 u.

4. Vouchers and supporting documentation should be sent to:

**NYS Division of Criminal Justice Services
Office of Finance
80 South Swan Street
Albany, NY 12210**

5. Reconciliation shall be based upon services provided by the CONTRACTOR and payments made by the STATE consistent with the terms of this AGREEMENT and may occur at any time during the AGREEMENT and shall occur upon termination of the AGREEMENT. The CONTRACTOR shall refund any overpayments made pursuant to this AGREEMENT within ninety (90) calendar days of written notification by the STATE unless written approval is obtained by the STATE.

6. This contract may be extended, increased, decreased, terminated, renewed, amended or renegotiated at the discretion of the Commissioner of the Division of Criminal Justice Services.

7. The CONTRACTOR agrees that these grant funds will be used to supplement and not supplant existing funds and services.

Notwithstanding the language in section D, number 2 of the contract special conditions, the following reporting procedures will take effect July 1, 2012.

1. Quarterly Reports - All ATI programs are required to submit Quarterly Reports on the schedule indicated in Appendix A-1. Effectively July 1, 2012, 13-A funded programs are no longer required to submit these reports using the GMS. Rather, the DCJS Office of Probation and Correctional Alternatives (OPCA) quarterly report template will be sent directly to each program upon contract execution. If the CONTRACTOR utilizes CASELOAD EXPLORER (CE), the CE will generate the report for you. The completed report should be submitted directly to dcjsopcaati@dcjs.ny.gov. Once received, OPCA will attach the completed report onto the GMS.

2. Tracking Logs - All County OPCA 13-A ATI programs, with the exception of Pretrial Programs, are required to submit Tracking Logs according to the same quarterly reporting schedule. The OPCA Tracking Log template

will be sent directly to each CONTRACTOR upon contract execution. The completed Tracking Logs should be submitted to dcjsopcaati@dcjs.ny.gov.

No materials, items or publications resulting from award activities may use the DCJS logo or provide any attribution to DCJS in any form, without prior approval from the Commissioner of DCJS or his designee. Requests for such approval must be submitted in writing to DCJS's Agency Council at least 30 days before requested use. Determinations of such requests will be made by the DCJS Commissioner on a case-by-case basis.

Award Contract

OPCA ATI Classification

Project No.**Grantee Name**

CL17-1028-D01

Oneida County

04/30/2018

Appendix M MWBE Contract Requirements (Local Assistance)

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

A. The Division of Criminal Justice Services (DCJS) is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (MWBE Regulations) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

B. The Contractor to the subject contract (the Contractor and the Contract, respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the DCJS, to fully comply and cooperate with the DCJS in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (EEO) and contracting opportunities for certified minority and women-owned business enterprises (MWBEs). Contractors demonstration of good faith efforts pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the Human Rights Law) or other applicable federal, state or local laws.

C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

II. Contract Goals

A. For purposes of this contract, the DCJS has established overall goals for Minority and Women-Owned Business Enterprises (MWBE) participation which are specified in the contract workplan.

B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in the contract workplan hereof, Contractor should reference the directory of New York State Certified MBWEs found at the following internet address: <http://www.esd.ny.gov/mwbe.html>. Additionally, Contractor is encouraged to contact the Division of Minority and Woman Business Development (518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the DCJS for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

A. Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the Division). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

B. Contractor shall comply with the following provisions of Article 15-A:

1. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
2. The Contractor shall maintain an EEO policy statement and submit it to the DCJS if requested.
3. If Contractor or Subcontractor does not have an existing EEO policy statement, Section 4 below may be used to develop one.
4. The Contractors EEO policy statement shall include the following, or similar, language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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.
 - c. 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.
 - d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph E of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Local Assistance MWBE Equal Employment Opportunity Staffing Plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

D. Workforce Employment Utilization Report

1. Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the DCJS of any changes to the previously submitted Local Assistance MWBE Equal Employment Opportunity Staffing Plan. This information is to be submitted annually or as otherwise required by the DCJS during the term of the contract, for the purpose of reporting the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Local Assistance MWBE Workforce Employment Utilization Report form must be used to report this information.
2. Separate forms shall be completed by Contractor and any Subcontractor performing work on the Contract.
3. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be

Contractor shall submit the Local Assistance MWBE Workforce Employment Utilization Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

E. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

A. The Contractor represents and warrants that Contractor has submitted a Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form either prior to, or at the time of, the execution of the contract.

B. Contractor agrees to use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in the contract workplan.

C. Contractor further agrees that a failure to submit and/or use such Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Form shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, DCJS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

V. Waivers

A. If the DCJS, upon review of the Local Assistance MWBE Subcontractor/Supplier Utilization Proposal Plan, the Detailed Itemization Forms or the Local Assistance MWBE Workforce Employment Utilization Report determines that a Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the DCJS may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. MWBE Subcontractor Utilization Quarterly Report

Contractor is required to report MWBE Subcontractor utilization, as part of the quarterly claim process, to the DCJS by the last day of the month following the end of each calendar quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

VII. Liquidated Damages - MWBE Participation

A. Where DCJS determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, such finding constitutes a breach of Contract and DCJS may withhold payment from the Contractor as liquidated damages and/or provide for other appropriate remedies.

B. Such liquidated damages shall be calculated as an amount equaling the difference between:

1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the DCJS, Contractor shall pay such liquidated damages to the DCJS within sixty (60) days after they are assessed by the DCJS unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated

damages shall be payable if Director renders a decision in favor of the DCJS.

M/WBE AND EEO POLICY STATEMENT

The Contractor agrees to adopt the following policies or similar policies with respect to the project being developed or services rendered in this contract with the Division of Criminal Justice Services:

M/WBE

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

(1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.

(2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.

(3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.

(4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.

(5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.

Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and 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.

(b) This organization shall state in all solicitation 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 disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized 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 this organizations obligations herein.

(d) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Contractor agrees to comply with all MWBE and EEO contract goals reflected on the MWBE Utilization Plan and Staffing Plan respectively, that have been submitted with the application for this contract. .

VER5/13/13

Certified by - on

Award Contract**OPCA ATI Classification****Project No.**

CL17-1028-D01

Grantee Name

Oneida County

04/30/2018

Amendment created on - 02/16/2018

Prior Contract Terms

Contract Start Date - 07/01/2017

Contract End Date - 06/30/2018

Contract Amount - \$42,594.00

APPENDIX X**AMENDMENT OF GRANT CONTRACT TERMS**

Agency Code: 01490

This is an Appendix (Appendix X) to the AGREEMENT between THE STATE OF NEW YORK, acting by and through the New York State Division of Criminal Justice Services (DCJS), and represents an amendment to the grant contract executed between DCJS and the Grantee Agency indicated in the GMS Participant Module (the Parties).

It is understood that the terms and conditions of the original grant contract have been modified by mutual agreement between DCJS and the Grantee Agency. Those terms and conditions which have been modified herein supersede prior executed versions of this contract. All other provisions of the contract shall remain in full force and effect for the duration of the contract, unless further amended by mutual agreement of the Parties, and by the electronic certification of a subsequent Appendix X by both DCJS and the Grantee Agency.

All Certified Assurances for federal programs, and DCJS Contract Appendices are also available online for download at <http://criminaljustice.state.ny.us/ofpa/forms.htm>.

Certified by - on



**ONEIDA COUNTY
DEPARTMENT OF EMERGENCY SERVICES
FIRE COORDINATOR
911 CENTER**

ANTHONY J. PICENTE, JR.
County Executive

KEVIN W. REVERE
Director

120 Base Road ♦ Oriskany, New York 13424
Phone: (315) 765-2526 ♦ Fax: (315) 765-2529

FN 20 18239

June 26, 2018

Honorable Anthony J. Picente, Jr.
Oneida County Executive
800 Park Ave
Utica, New York 13501

PUBLIC SAFETY

WAYS & MEANS

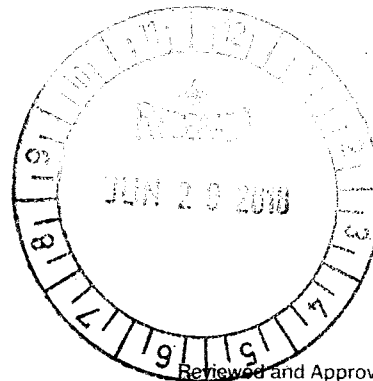
Dear County Executive Picente,

Attached is a Memorandum of Understanding between Oneida County and the City of Utica. The County is providing use of its County-owned hazmat Trailer to the City of Utica for use in their hazardous materials response operations. The City Fire Department will be responsible for maintenance, upkeep, and storage of the trailer, and will be required to respond with the trailer to any agency upon their request. The County will maintain ownership of the trailer. This arrangement will allow the most efficient use of the trailer and provide the greatest benefit to the safety needs of the people of Oneida County.

I respectfully request that you review and approved this Memorandum of Understanding and forward to the Board of Legislators for their approval.

Sincerely,

Kevin W. Revere
Director of Emergency Services



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
County Executive

Date 6-29-18

kmg

Oneida Co. Department Emergency Services

Competing Proposal _____

Only Respondent _____

Sole Source RFP _____

Oneida County Board of Legislators

Contract Summary

Name & Address of Vendor: City of Utica
1 Kennedy Plaza
Utica, NY 13502

Title of Activity or Services: Assignment of a Hazmat Trailer to the Utica Fire Department for use and storage.

Proposed Dates of Operations: Upon execution for a period of one (1) year; automatically renewed annually up to five (5) years.

Client Population/Number to be Served: Population of Oneida County

SUMMARY STATEMENTS

1) Narrative Description of Proposed Services: Maintaining and storing the Hazmat Trailer at the City of Utica FD will assist with safety and security by enhancing the FD's ability to quickly assist with hazardous materials emergency situations in Oneida County.

2) Program/Service Objectives and Outcomes: Primary objective is to ensure the safety and security of the residents of Oneida County.

3) Program Design and Staffing Level: The City of Utica Fire Department will store, maintain, and respond to hazardous materials emergency situations with the Hazmat Trailer.

Total Funding Requested: None

Account #:

Oneida County Dept. Funding Recommendation: N/A

Proposed Funding Source (Federal \$ /State \$ / County \$): N/A

Cost Per Client Served: N/A

Past performance Served: N/A

O.C. Department Staff Comments:

ONEIDA COUNTY HAZMAT TRAILER MOU

This Memorandum of Understanding (the "MOU") shall be between the County of Oneida, a municipal corporation having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," through its Office of the Fire Coordinator, located at 120 Base Road, Oriskany, New York 13424, hereinafter referred to as "Fire Coordinator," and the City of Utica, with its principal offices located at 1 Kennedy Plaza, Utica, New York 13502, through its Utica Fire Department, hereinafter referred to as the "Fire Department" (collectively referred to as the "Parties").

Witnesseth:

WHEREAS, the County operates a Department of Emergency Services, which includes the Office of the Fire Coordinator, and such Fire Coordinator is responsible for administering the County's fire and hazardous materials response operations; and

WHEREAS, the Fire Coordinator is tasked with administering Oneida County's Mutual Aid Plan and assisting fire departments of Oneida County in accessing the necessary resources to handle the given fire or hazardous emergency situation; and

WHEREAS, the County owns equipment that it allows cities and towns to utilize in order to promote fire and hazardous materials response operations; and

WHEREAS, the County, through its Fire Coordinator, and the Fire Department, have identified a Hazmat Trailer as a necessary resource and a piece of equipment that represents a public purpose and serves the interests of the firefighters, as well as the greater public health interests of the residents of Utica and the County of Oneida, and the Parties acknowledge that the Hazmat Trailer is being provided as a means to continue caring for the health, safety, and welfare of the residents of Oneida County; and

WHEREAS, in consideration of the successful continuation of the County's Mutual Aid Plan, the safety interests of the Fire Department, and the safety needs of the people of Oneida County, the Parties have determined that effective utilization of the Hazmat Trailer for the greatest benefit necessitates that it be transferred by the County to be housed and maintained by the Fire Department;

NOW, THEREFORE, the Parties to this MOU mutually agree as follows:

1) Term.

- a) This MOU shall be in effect for a period of one (1) year from the date of execution (the "Term"), and will be automatically renewed for successive one (1) year periods, for up to a total of five (5) years, unless terminated earlier in writing by either party upon thirty (30) days' notice, or until the Parties agree in writing that the Hazmat Trailer is no longer able to provide the function for which it is intended, or is inadequate and out of date.
- b) Upon receipt or delivery of notice of termination, the Fire Department shall return the Hazmat Trailer to the County in a manner mutually agreed upon by the Parties.

2) County and Fire Coordinator Responsibilities.

- a) The Fire Coordinator will provide one (1) Hazmat Trailer, an eight and a half foot by thirty two foot (8.5' x 32') Verde flat top cargo trailer, to the Fire Department. Rights and the responsibility

for the Hazmat Trailer shall rest with the Fire Department, which shall account for and maintain the Hazmat Trailer in a manner specified below in Section 3 until the termination of this MOU.

- b) The County will be responsible for insuring the Hazmat Trailer.

3) City of Utica and Fire Department Responsibilities.

- a) The Fire Department shall store and maintain the Hazmat Trailer at a mutually agreed upon secure indoor location within the City of Utica.
- b) The Fire Department shall not change location of the Hazmat Trailer without receiving prior approval from the Fire Coordinator.
- c) The Fire Department will respond with the Hazmat Trailer to any agency upon their request.
- d) The Fire Department acknowledges and agrees that during the Term of this MOU, they are solely responsible for the proper inspection and maintenance of the Hazmat Trailer.
- e) The Fire Department acknowledges and agrees that they shall not make any alterations or modifications to the Hazmat Trailer.
- f) The Fire Department will provide any necessary training exercises for their employees and others who may utilize the Hazmat Trailer.
- g) The City of Utica shall provide the County with a letter of self-insurance prior to the start of this MOU and shall maintain the proper coverage for potential claims of injury, property damage, and negligence.
- h) The City of Utica shall maintain the proper workers' compensation and employer's liability insurance coverages in accordance with the Workers' Compensation Law.

4) Indemnification.

- a) To the fullest extent permitted by applicable law, the Fire Department (the "Indemnifying Party") shall indemnify and hold harmless, and at the County's option, defend, Oneida County, and/or its officers, directors, members, agents, employees, contractors and other representatives (each, individually, an "Indemnified Party" and, collectively, the "Indemnified Parties"), from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, economic damage, and claims brought by third parties (collectively, "Damages"), incurred by any Indemnified Party caused by any negligent act or omission, or intentional misconduct of the Indemnifying Party, its officers, agents, employees (including Fire Department's authorized personnel) arising out of or in connection with the exercise by the Fire Department or any of Fire Department's authorized personnel of the rights and privileges granted by or pursuant to this MOU, except to the extent such Damages are caused by the sole negligence, unlawful act or omission, or intentional misconduct of an Indemnified Party.

5) Independent Contractor Status.

- a) It is expressly agreed that the relationship of the Fire Department to the County shall be that of an independent contractor. The Fire Department's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Fire Department, in accordance with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by

reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.

- b) The employees of the Fire Department shall not be eligible for compensation from the County due to absence due to i) illness; ii) normal vacation; or iii) attendance at school or special training, or a professional convention or meeting.
- c) The Fire Department acknowledges and agrees that its employees shall not be eligible for any County employee benefits, including retirement membership credits.
- d) If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Fire Department's independent contractor status, it is agreed that both the County and the Fire Department shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- e) The Fire Department agrees to comply with Federal and State Laws as supplemented in the Department of Labor regulations, and any other regulations of the Federal and State entities relating to such employment and Civil Rights requirements.

6) Training.

- a) The Fire Department's employees shall not be required to attend or undergo any training by the County.
- b) The Fire Department will ensure that its employees attend trainings mandated by Federal and/or State Law or Regulation necessary to perform the general duties of the Fire Department. The Fire Department shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the general duties of the Fire Department, and shall be solely responsible for the cost of the same.

7) Assignment.

- a) In accordance with General Municipal Law §109, the Fire Department shall not assign, transfer, or convey the Hazmat Trailer to any other entity, without the prior express written consent of the County, and any attempts to do so are null and void.

8) Governing Law.

- a) This MOU shall be governed by and construed in accordance with the laws of the State of New York, exclusive of its choice of laws, rules, and principles. The Parties agree that any legal action shall be filed in a court of competent jurisdiction in Oneida County, New York.

9) Severability.

- a) If any term or provision of this MOU shall be held invalid or unenforceable, the remainder of this MOU shall not be affected thereby and every other term and provision of this MOU shall be valid and enforced to the fullest extent permitted by law.

10) Notices.

- a) Notices provided for in this MOU shall be delivered by mail to the following:

For Oneida County:

For the City of Utica:

Oneida County

City of Utica

800 Park Avenue
Utica, New York 13501

1 Kennedy Plaza
Utica, New York 13502

With a Copy To:

Oneida County Department of Emergency Services
120 Base Road
Oriskany, New York 13424

11) Advice of Counsel.

- a) Each party acknowledges that, in executing this MOU, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this MOU.

12) Entire Agreement.

- a) The terms of this MOU, including any attachments, amendments, addendums or appendixes attached hereto, constitute the entire understanding and agreement of the Parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this MOU. By signing below, the Parties agree and acknowledge that they have read, understood and agreed to all the terms contained in any addenda attached hereto, including, but not limited to, Addendum I (Standard Oneida County Conditions). No waiver, alterations or modifications of and provisions of this MOU shall be binding unless in writing and signed by the duly authorized representative of the Parties sought to be bound.

*[Remainder of this page intentionally left blank.
Signature page to follow.]*


IN WITNESS WHEREOF, the Parties have signed this MOU on the day and year written below.

ONEIDA COUNTY

Anthony J. Picente, Jr.
County Executive

Date: _____

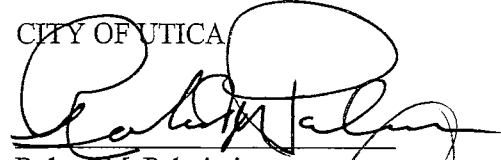
ONEIDA COUNTY FIRE COORDINATOR



Kevin W. Revere
Fire Coordinator

Date: 6/28/18

CITY OF UTICA

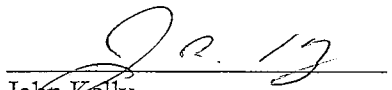


Robert M. Palmieri
Mayor

Date: _____

**APPROVED
BY LAW DEPT.**

UTICA FIRE DEPARTMENT



John Kelly
Fire Chief

Date: 6/18/18

Approved
Oneida County Attorney's Office

Alison Stanulevich, Esq.
Assistant County Attorney

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislators Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative

agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

- 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:
- Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
- F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

- 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- 2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

- ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the

Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
 - ii. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
 - i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
 - ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
 - iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
 - iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
 - v. Make available protected health information in accordance with 45 CFR §164.524;
 - vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
 - vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
 - viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County

available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

- ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKER'S COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as

determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records

shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application;

request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services

(hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

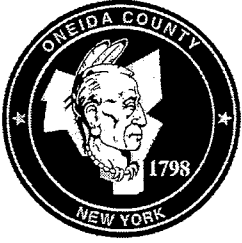
19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, "e-cigarette" shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that

delivers vapor which is inhaled by an individual user as he or she simulates smoking.

- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.



ONEIDA COUNTY
DEPARTMENT OF EMERGENCY SERVICES
FIRE COORDINATOR
911 CENTER

ANTHONY J. PICENTE, JR.
County Executive

KEVIN W. REVERE
Director

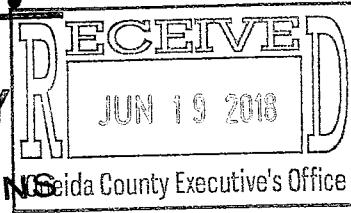
120 Base Road • Oriskany, New York 13424
Phone: (315) 765-2526 • Fax: (315) 765-2529

June 14, 2018

FN 20 18240

The Honorable Anthony J. Picente Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

PUBLIC SAFETY
WAYS & MEANS



Dear County Executive Picente,

Attached are a letter and a contract from New York State Department of Homeland Security awarding Oneida County \$773,684.00 through its State Homeland Security Program.

No county dollars will be necessary for this project.

I, therefore, request your approval and the Board's approval for the following:

A.) Establishment of Capital Project H-581 - Emergency Services – SI17-1008-D00 SICG Grant, and

B.) Funding for Capital Project H – 581 – as follows:

H-581 – State Aid.....\$773,684.00

This Grant Contract has been previously approved by the Board and signed by you.

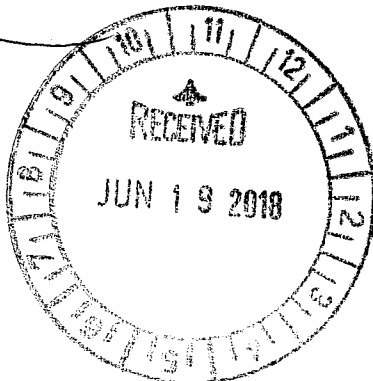
If you have any questions, please advise me. Thank you for your help.

Sincerely,

[Handwritten signature of Kevin W. Revere]

Kevin W. Revere
Director

Cc: Tom Keeler
Sheryl Brown
file



Reviewed and Approved for submittal to the
Oneida County Board of Legislator by
[Signature]
Anthony J. Picente, Jr
County Executive

Date 6-19-18



ONEIDA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

ANTHONY J. PICENTE, JR.
County Executive
ce@ocgov.net

June 9, 2018

Gerald J. Fiorini, Chairman.
Oneida County
Board of Legislators
800 Park Avenue
Utica, NY 13501

FN 20 18-241

PUBLIC WORKS

WAYS & MEANS

Dear Chairman Fiorini:

The Commissioner of the Department of Public Works along with the Deputy Commissioner have informed me there is a need to start to work on plans and specifications for a Public Parking Facility. It is estimated these documents will require approximately six months for completion and sufficient lead time is required to meet projected construction schedules. Therefore, the schematic design phase must begin immediately.

I would like to set up a Capital Project to address the Commissioner's and Deputy Commissioner's concerns and initially fund the schematic design phase. Funding for design development, construction documents, bid documents, and construction phase services will be secured at a later date.

I therefore request your Board's approval for the following:


A.) Establishment of **Capital Project H-566 – DPW – Public Parking Facility**

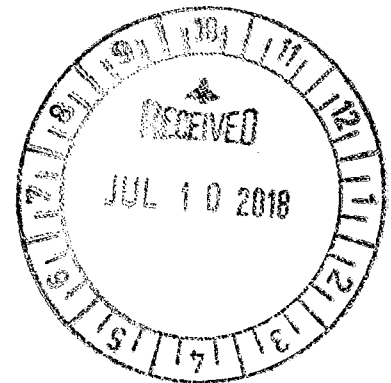
B.) Funding for Capital Project H – 566 as follows:

H – 566 –5031 Transfer from General Fund..... \$500,000

Thank you for kind attention to this request.

Very truly yours,


Anthony J. Picente, Jr.
Oneida County Executive



CC: Comptroller
County Attorney
Budget
Commissioner of DPW

ANTHONY J. PICENTE JR.
County Executive

DENNIS S. DAVIS
Commissioner



DIVISIONS:
Buildings & Grounds
Engineering
Highways, Bridges & Structures
Reforestation

Oneida County Department of Public Works

5999 Judd Road Oriskany, New York 13424
Phone: (315) 793-6213 w Fax: (315) 768-6299

June 13, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, NY 13501

FN 20 18240

PUBLIC WORKS

Dear County Executive Picente,

WAYS & MEANS

The County owns a communications tower and transmitter building at 3622 Skyline Drive in the Town of Kirkland, and has several tenants. On December 13, 2017, the Oneida County Board of Acquisition and Contract accepted a proposal from Family Life Ministries, Inc., to lease space for the purpose of broadcasting an FM radio signal.

The proposed lease term is five (5) years with a \$6,300.00 annual rental rate for the first year and three percent (3%) increases every year thereafter. In consideration of certain improvements required to occupy the County owned transmitter building, commencing August 1, 2018 and continuing for a period of seven (7) calendar months, Family Life Ministries, Inc., would be credited the stipulated rent for a total credit of Three Thousand Six Hundred Seventy-Five Dollars (\$3,675.00)

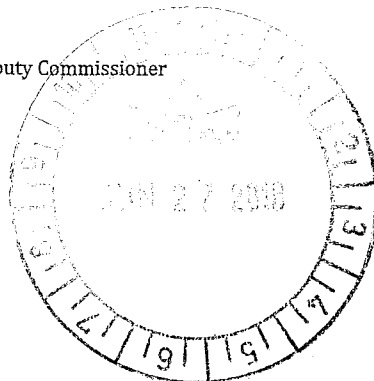
Please consider the enclosed lease agreement and if acceptable, forward to the Oneida County Board of Legislators for approval.

Thank you for your continued support.

Sincerely,

Dennis S. Davis
Commissioner

cc: Mark E. Laramie, PE, Deputy Commissioner



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
County Executive

Date 6-27-18

Competing Proposal	_____
Only Respondent	_____
Sole Source RFP	_____
Other	<u> X </u>

ONEIDA COUNTY BOARD OF LEGISLATORS

Name & Address of Vendor: Family Life Ministries, Inc.
7634 Campbell Creek Road
Bath, NY 14810

Title of Activity or Service: Lease

Proposed Dates of Operation: June 1, 2018 – May 31, 2023

Client Population/Number to be Served: N/A

Summary Statements

1) Narrative Description of Proposed Services:

The County owns a communications tower and transmitter building at 3622 Skyline Drive in the Town of Kirkland, and has several tenants. On December 13, 2017, the Oneida County Board of Acquisition and Contract accepted a proposal from Family Life Ministries, Inc., to lease space for the purpose of broadcasting an FM radio signal.

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2) Program/Service Objectives and Outcomes: N/A

3) Program Design and Staffing: N/A

4) Funding

Account #:	A2411
Total Funding Requested:	\$29,772.56
Oneida County Dept. Funding Recommendation:	\$29,772.56

Proposed Funding Sources

Federal:	
New York State:	
County:	\$29,772.56 (Revenue)
Other:	

Past Performance Data: N/A

O.C. Department Staff Comments: None

TOWER LEASE AGREEMENT

THIS TOWER LEASE AGREEMENT (this "Lease") is made and entered into as of August 1, 2018, (the "Effective Date"), by and between FAMILY LIFE MINISTRIES, INC. (hereinafter "Tenant"), a not-for-profit corporation organized and existing under the laws of the State of New York, with its primary offices located at 7634 Campbell Creek Road, Bath, New York 14810, and ONEIDA COUNTY (hereinafter "Landlord"), a municipal corporation established under the laws of the State of New York with its primary offices located at 800 Park Avenue, Utica, New York 13501 (each a "Party" and collectively the "Parties").

WITNESSETH:

WHEREAS, Landlord is the owner of a parcel of real property located at 3622 Skyline Drive, Kirkland, New York, as more particularly described in **EXHIBIT A** attached hereto and incorporated herein by reference, on which communications towers and several related transmitter buildings are located. The real property and all Landlord's other towers, facilities, buildings, equipment and apparatuses thereon are collectively referred to as "Kirkland Hill" herein; and

WHEREAS, Tenant operates Radio Station WCIT-FM at 106.3 MHz (the "Station"); and

WHEREAS, Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, certain space on one tower located on Kirkland Hill (the "Tower") and certain space in one of the transmitter buildings (the "Transmitter Building"), all as more particularly described herein and as delineated in **EXHIBIT A**, for the antenna, cables, wires, transmitting equipment and other equipment ("Tenant's Equipment") used or useful in connection with Tenant's operation of the Station.

NOW, THEREFORE, in consideration of the rents, terms, promises, covenants and agreements contained herein, and in consideration of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto intending to be legally bound, do hereby mutually agree:

1) **Leased Premises:**

- a) Landlord hereby grants an exclusive lease as to the "Leased Premises" which is the space for Tenant's transmission line, antenna, transmitter and other equipment to be attached, installed, placed or positioned, which meets the following description:
 - i) Space on the Tower for Tenant's antenna shall begin at one hundred thirty-two (132) feet above the Tower base and end at one hundred fifty-seven (157) feet above the Tower base.
 - ii) Space in the Transmitter Building for Tenant's equipment, shall consist of approximately twelve (12) square feet of floor space.
- b) Landlord grants a non-exclusive easement for pedestrian and vehicular ingress and egress over and across Kirkland Hill, utilizing the "Gravel Roadway" delineated in **EXHIBIT A**, so that Tenant shall have unobstructed access to the Tower and Transmitter Building.
- c) Subject to Section 1(a) and Section 5, Landlord retains the right to lease to other tenants all space on the Tower and in the Transmitter Building that does not comprise the Leased Premises.

- 2) **Use:** The Leased Premises will be used by Tenant for the sole purposes of permitting Tenant to operate its transmitting and receiving facilities necessary for radio broadcast communications used in connection with Tenant's operation of the Station. Such use may include, without limitation, installing, removing, replacing and maintaining Tenant's Equipment.
- 3) **Term: Rent.**
 - a) The term of this Lease shall commence on August 1, 2018 and shall end on July 31, 2023.
 - b) Rent for the Leased Premises shall be set at the rate of Five Hundred Twenty-Five Dollars (\$525.00) per month (\$6,300.00 per year) for the first year. Each subsequent year thereafter, the annual rent shall be determined by adding three percent (3%) to the rent charged for the last month of the previous year, and shall increase by three percent (3%) every year thereafter.
 - c) Rent shall be paid monthly in advance by the first day of each month. Rent shall be paid by check and mailed to Commissioner of Public Works, 5999 Judd Road, Oriskany, New York 13424. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly rent stipulated in this Lease shall be treated as anything other than a payment on account of the earliest rent due, nor shall any endorsement or statement on any check or on any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord shall accept such check or payment without prejudice to its rights to recover the balance of the rent or to any other remedy provided by this Lease.
 - d) In addition, in consideration of certain improvements required to occupy the Transmitter Building, commencing August 1, 2018 and continuing for a period of (7) calendar months, Tenant shall be credited the stipulated Rent for said months for a total credit of Three Thousand Six Hundred Seventy-Five Dollars (\$3,675.00).
- 4) **Operations:**
 - a) **Maintenance.** During the term of this Lease, Tenant shall keep all of Tenant's Equipment in good condition and repair. Tenant's Equipment, and replacements thereof by Tenant, shall remain the property of Tenant.
 - b) **Utilities.** Except as otherwise set forth herein, Tenant shall be responsible for all electric, power, water, telephone service and other utility service necessary to operate Tenant's Equipment, and Tenant shall be responsible for its pro rata share of all charges associated with the use of any such services by Tenant. In addition, Tenant may, at Tenant's election and with the written consent of Landlord, cause such other utilities to be provided to the Leased Premises as Tenant deems necessary or desirable for the operation of Tenant's Equipment on the Leased Premises.
 - c) **Taxes.** All broadcasting equipment or other property attached to or otherwise brought onto the Leased Premises by Tenant shall at all times be deemed to be personal property of Tenant and Tenant shall timely pay all taxes and any other fees which may be assessed with respect to such broadcasting equipment or property, and with respect to its possession, operation or use by Tenant. Tenant shall not be responsible for the real property taxes of Landlord.

- d) Governmental Permits. Tenant shall at all times, at its own expense, secure and maintain any and all licenses, consents and permits which may now or hereafter be required by all persons or federal, state, or municipal agencies, in connection with the operation of Tenant's Equipment on the Leased Premises.
- e) Tenant acknowledges that the transmission equipment location (the "Tower") provided to it by Landlord for its use in this Lease is also utilized by other entities that also transmit signals from this tower and adjacent towers. From time to time, Landlord and/or these other entities may have need to repair, maintain or upgrade their transmission equipment on the Tower. Such activities by Landlord or other entities may require Tenant to temporarily interrupt or reduce its transmission signal strength so that the repair, maintenance or upgrade can be completed safely. In the event such a need for reduction or interruption becomes necessary, Landlord certifies the following:
 - i) Landlord will provide Tenant with a minimum of two (2) weeks' notice, in writing, of the need for any interruption or reduction;
 - ii) Tenant agrees to promptly comply with any request of Landlord to reduce or interrupt its transmission signal strength, and any failure of Tenant to comply with such a request, properly noticed, shall be considered a material breach of this Lease;
 - iii) Landlord will take all steps in its power to ensure that the interruption or reduction is scheduled at such a time as can be agreed upon between Tenant and Landlord; and
 - iv) Landlord will ensure that the necessary repairs, maintenance or upgrades are completed as quickly as is reasonably possible.
- f) Tenant hereby acknowledges that it will receive no compensation for any realized or potential loss of revenue as a result of any reduction or interruption of its transmission signal strength.

5) **No Interference:**

- a) Tenant shall conform to all FCC regulations and transmission standards. Furthermore, Tenant agrees that it will not operate in a manner that will cause harm or interference to or will be disruptive in any manner to the operations of preexisting Tenants located on Kirkland Hill. Should Tenants' use of Landlord's property result in proven interference (radio frequency interference or otherwise) to preexisting Tenant operations, Tenant shall immediately terminate such operations within a reasonable timeframe, not to exceed two (2) days, and take all reasonable actions within its control to prevent such interference from recurring.
- b) Landlord agrees that it will not enter into any lease of Kirkland Hill in a manner that will cause harm or interference to or will be disruptive in any manner to the operations of Tenant or the Station. Should other tenants' or Landlord's use of its property result in proven interference (radio frequency interference or otherwise) to Tenant's operations, Landlord shall terminate such use within a reasonable timeframe (not to exceed ten (10) days), and take all reasonable actions within its control to prevent such interference from recurring.

- c) The term "interference," as used in this paragraph, as well as the clause dealing with "radio frequency interference" in paragraph (5)(a), above, shall mean a condition which constitutes interference within the meaning of the provisions of the Standards of Good Engineering Practice and rules and regulations of the FCC then in effect.

6) **Liability:**

- a) To the fullest extent permitted by law, Tenant shall indemnify and hold harmless Landlord from and against any and all liabilities, losses, claims and damages for injuries to persons or damage to property arising out of, resulting from or in any manner caused by the presence, use or maintenance of Tenant's Equipment on the Leased Premises, or by the acts or omissions of Tenant and its employees and agents on and about Kirkland Hill, except to the extent attributable to the willful misconduct of Landlord or its employees or agents.
- b) Tenant shall, at its own expense, purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A. M. Best.
 - i) Commercial General Liability (CGL) coverage with limits of not less than One Million Dollars (\$1,000,000) each occurrence, and Two Million Dollars (\$2,000,000) Annual Aggregate. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, XCU, independent contracts, products, completed operations, personal and advertising injury. Landlord shall be included as an additional insured, on a primary and non-contributing basis before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by, or provided to, the additional insured. Tenant shall maintain said CGL coverage for itself and the additional insured for the duration of this Lease, and maintain completed operations coverage for itself and the additional insured for at least three (3) years after termination.
 - ii) Workers' Compensation and Employer's Liability, pursuant to statutory limits.
 - iii) Business Automobile Liability with limits of at least One Million Dollars (\$1,000,000) each accident. Coverage must include liability arising out of all owned, leased, hired and non-owned automobiles. Landlord shall be included as an additional insured on a primary and non-contributing basis.
 - iv) Excess/Commercial Umbrella coverage with limits of at least One Million Dollars (\$1,000,000). Landlord shall be included as an additional insured. Excess/Umbrella coverage for such additional insured shall apply as primary and non-contributing before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insured.
 - v) Landlord shall not execute this Lease until certificates, evidencing the insurance required by this Section, have been provided to Landlord. The certificates shall be on forms approved by Landlord, and shall contain a provision that coverage afforded under the policies shall not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to Landlord. The holder shall be listed as Oneida County, 800 Park Avenue, Utica, New York 13501. Acceptance of the certificates shall not relieve Tenant of any of the insurance requirements, nor decrease the liability of Tenant.

Landlord reserves the right to require Tenant to provide insurance policies for review by Landlord. Tenant grants Landlord a limited power of attorney to communicate with Tenant's insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

- vi) Tenant waives all rights against Landlord and its agents, officers, and employees for recovery of damages to the extent such damages are covered by a policy of insurance maintained per the requirements stated above.

7) **Default: Termination.**

- a) If a Party fails to perform any of the covenants, terms or conditions of this Lease ("Breaching Party"), the Breaching Party shall have twenty (20) calendar days to cure any such failure following notice from the non-breaching party. If the failure is not capable of being cured within twenty (20) calendar days, the Breaching Party shall be afforded a reasonable period of time to cure the failure provided that the Breaching Party promptly commences curing the failure after its occurrence and prosecutes the cure to completion with due diligence.
- b) In addition to all other rights and remedies available under this Lease, Tenant and Landlord shall have all other rights and remedies available at law or in equity.

8) **Equipment Removal:**

- a) In a period no longer than ninety (90) days after the expiration or earlier termination of this Lease, Tenant shall, at Tenant's sole cost and expense, vacate the Leased Premises hereunder, and remove all of Tenant's Equipment.
- b) If such removal takes longer than ninety (90) days after expiration or termination of this Lease, Tenant shall pay rent at the then existing monthly pro rata basis, until such time as the removal is completed.
- c) If removal takes longer than one hundred eighty (180) days, Landlord shall have the right to remove Tenant's Equipment and store the same at Tenant's cost and expense, including, but not limited to, the costs and expenses of any damages resulting from the removal of Tenant's Equipment by Landlord. If Tenant has not taken possession of Tenant's Equipment from storage (and paid all costs and expense incurred by Landlord in removing and storing the same) within thirty (30) days of such removal, then, at Landlord's option, Tenant's Equipment shall be deemed abandoned and all title to Tenant's Equipment shall vest in Landlord.
- d) Tenant agrees to compensate Landlord for any and all damages caused by the removal of any Equipment by Tenant under this section.

9) **Force Majeure: Condemnation.**

- a) Notwithstanding any other provision in this Lease, it is agreed that the Parties shall not be liable for damages nor deemed to be in default for any delay or failure of performance under this Lease caused by Acts of God or Nature or other acts beyond the reasonable control of the Parties or their agents or employees.

- b) If any of the Leased Premises are destroyed or damaged by acts beyond the control of Tenant, and reconstruction of the Leased Premises is estimated to take longer than ninety (90) days, Tenant may elect to terminate this Lease by so notifying Landlord within ninety (90) days following the date of damage or destruction. In the event that Tenant does not elect to so terminate, Landlord, at its own expense, and as speedily as circumstances permit, shall repair said damage and restore the Leased Premises to the condition the Leased Premises were in prior to said damage, and during the restoration and repair period Tenant's liability for rent shall be abated in full or partially reduced in proportion to the extent to which the damage and/or repair work interferes either totally or partially with Tenant's normal operation of its business on the Leased Premises. In the event that Landlord undertakes to restore the Leased Premises but such restoration is not completed within one hundred eighty (180) days following the date of damage or destruction, Tenant may terminate this Lease immediately upon written notice to Landlord.
- c) If all or any portion of the Leased Premises are condemned by any competent authority and such condemnation will make the property unusable for the purposes herein stated, then the term of this Lease shall end upon the date when possession of the property is taken by said authority.

10) Landlord's Covenants and Warranties:

- a) Landlord hereby represents, warrants, and covenants to Tenant that the following are true and complete statements as of the date of this Lease:
 - i) Landlord has no knowledge of a basis for imposition of any liability against it or the Leased Premises, arising out of Landlord's failure to comply with any applicable Environmental Laws. As used herein, the term "Environmental Laws" means any local, state, or federal statute, regulation, rule, order, approval, license, permit, authorization, certification or ordinance which regulates, controls or manages: (A) the generation, use, storage, treatment or disposal of hazardous materials, hazardous substances, hazardous wastes, toxic substances, oils and solid wastes (however such terms may be defined under any Environmental Laws); (B) the discharge of pollutants into the waters of the State of New York or of the United States; (C) the discharge of any air emissions; (D) the release or discharge of any substance into land; or (E) the use of any water, air, or land resources.
 - ii) Landlord has good and marketable title to the Leased Premises free and clear of all liens, charges, mortgages, security interests, or restrictions, and the Leased Premises has legal access to a public street that permits unobstructed access by vehicles and pedestrians.
 - iii) Landlord hereby warrants that the Leased Premises do not encroach upon the real property or improvements of any other party and none of the real property or improvements of any other party encroach upon the Leased Premises, and that it will defend title to the Leased Premises and will indemnify Tenant against any damage and expense which Tenant may suffer by reason of any claim against or defect in title to the land.
 - iv) Landlord hereby covenants to Tenant that subject to the provisions, restrictions, and conditions set forth in this Lease, Tenant shall at all times during the term of this Lease peaceably and quietly enjoy the Leased Premises, respectively, without disturbance from Landlord.

- v) Landlord has paid and discharged all taxes, assessments, excises, and other levies relative to the Leased Premises which, if due and not paid, would interfere with Tenant's full enjoyment of the Leased Premises, except such taxes, assessments, and other levies which are not yet due.
- vi) The Leased Premises and their constituent facilities have received all approvals of governmental authorities (including licenses, permits, and zoning approvals, and FCC tower registrations) required in connection with the operation thereof and have been operated and maintained in accordance with applicable laws, rules, and regulations, and all necessary utilities required for the operation of Tenant's Equipment on the Leased Premises are connected to or serving the Leased Premises.
- vii) All of Tenant's Equipment installed and attached as of the Effective Date of this Lease are in compliance with this Lease and such installations and attachments are acceptable to Landlord.

11) Assignment/Subletting:

- a) Tenant shall not assign or transfer this Lease or any right granted hereunder without the prior written consent of Landlord, which shall not be unreasonably withheld. In the event of a transfer or assignment of this Lease without the consent of the Landlord when such consent is required, Tenant shall remain primarily liable for the performance of all obligations and payment of all sums required hereunder
- b) Landlord may freely transfer or assign this Lease in the event of a sale of the Leased Premises, provided, however, that any purchaser of the Leased Premises must expressly assume Landlord's obligations hereunder.

12) Miscellaneous:

- a) No Waiver. Failure of any Party to enforce or insist upon compliance with any of the terms or conditions of this Lease shall not constitute a waiver or relinquishment by that party of any of its rights, nor a waiver or release of any of the other Party's obligations.
- b) Warranties. The Parties represent and warrant that each has the authority to enter into this Lease and to be bound by its terms and all necessary action on the part of each such Party has been duly taken approving the execution, delivery, and performance of this Lease.
- c) Survival. Unless otherwise provided herein, all of the Parties' obligations and duties under this Lease shall survive expiration or termination of this Lease.
- d) No Joint Venture. Notwithstanding any obligation from one Party to the other herein contained, the Parties herein state that they have not created and do not intend to create by this Lease a joint venture or partnership between them.
- e) Entire Agreement. The Parties hereto agree that this Lease contains the entire agreement between them as of this date, and that it has not been induced by any representations, promises or undertaking of either Party which have not been expressed herein, and that there are no collateral agreements, stipulations, promises or understandings whatsoever by the respective Parties in any way affecting the subject matter of this Lease which are not

expressly contained in this Lease. This Lease supersedes all previous agreements, whether written or oral, between the Parties, regarding any issue addressed herein.

- f) Amendments. This Lease may not be amended, modified, altered or changed in any respect whatsoever except by a further agreement in writing, fully executed by each of the Parties hereto.
- g) Notice. Any notice or other communication given or required pursuant to this Lease shall be effective if and only if, said notice or other communication is (i) delivered personally, (ii) sent by facsimile transmission, (iii) sent by certified mail through the United States Post Office, return receipt requested, or (iv) sent by reputable overnight courier, such as "FedEx." Notice shall be deemed given when delivered to the Party to be notified, or if refused or rejected, on the date when delivery was first attempted. Addresses of the Parties are as follows. To Landlord: Oneida County Department of Public Works, 6000 Airport Road Oriskany, New York 13424, Attention: Commissioner. To Tenant: Family Life Ministries, Inc., 7634 Campbell Creek Road, Bath, New York 14810, Attention: Rick Snavelly.
- h) Headings. The headings for paragraphs in this Lease are for convenience only and form no part of this Lease and in no way to affect the interpretation of this Lease.
- i) Severability. In the event that any provision of this Lease is found to be invalid or unenforceable, then the remainder of this Lease shall not be affected, and a suitable and equitable provision shall be substituted for the invalid or unenforceable provision in order to carry out the intent and purposes of such invalid or unenforceable provision.
- j) Choice of Law. This Lease shall be governed by, construed and enforced in accordance with the laws of the State of New York.
- k) Estoppel Certificate. Landlord and Tenant shall each, within ten (10) business days after receipt of a written request from the other, execute and deliver an estoppel certificate to those parties as are reasonably requested by the other (including a mortgagee or prospective purchaser). The estoppel certificate, if appropriate, shall include a statement certifying that this Lease is unmodified (except as identified in the estoppel certificate) and in full force and effect, describing the dates to which rent and other charges have been paid, representing that, to such Party's actual knowledge, there is no default (or stating the nature of the alleged default) and indicating other matters with respect to this Lease that may reasonably be requested.
- l) Non-disturbance. In the event that Landlord mortgages Kirkland Hill, Landlord shall obtain a non-disturbance agreement from its mortgagee for the benefit of Tenant, which agreement may also contain such other provisions as agreed to between Tenant, Landlord and Landlord's mortgagee.

(Remainder of page intentionally left blank.)

IN WITNESS WHEREOF, the Parties have duly executed this Lease as of the date set forth above.


COUNTY OF ONEIDA

By:

Anthony J. Picente, Jr.
Oneida County Executive

FAMILY LIFE MINISTRIES, INC.

By:



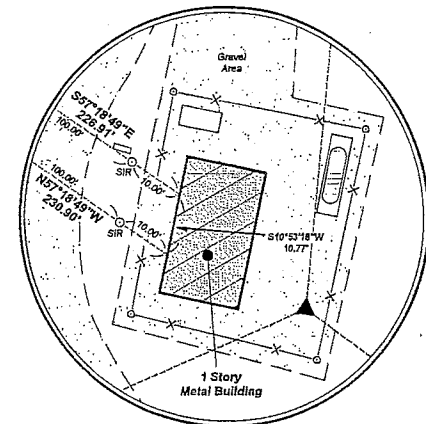
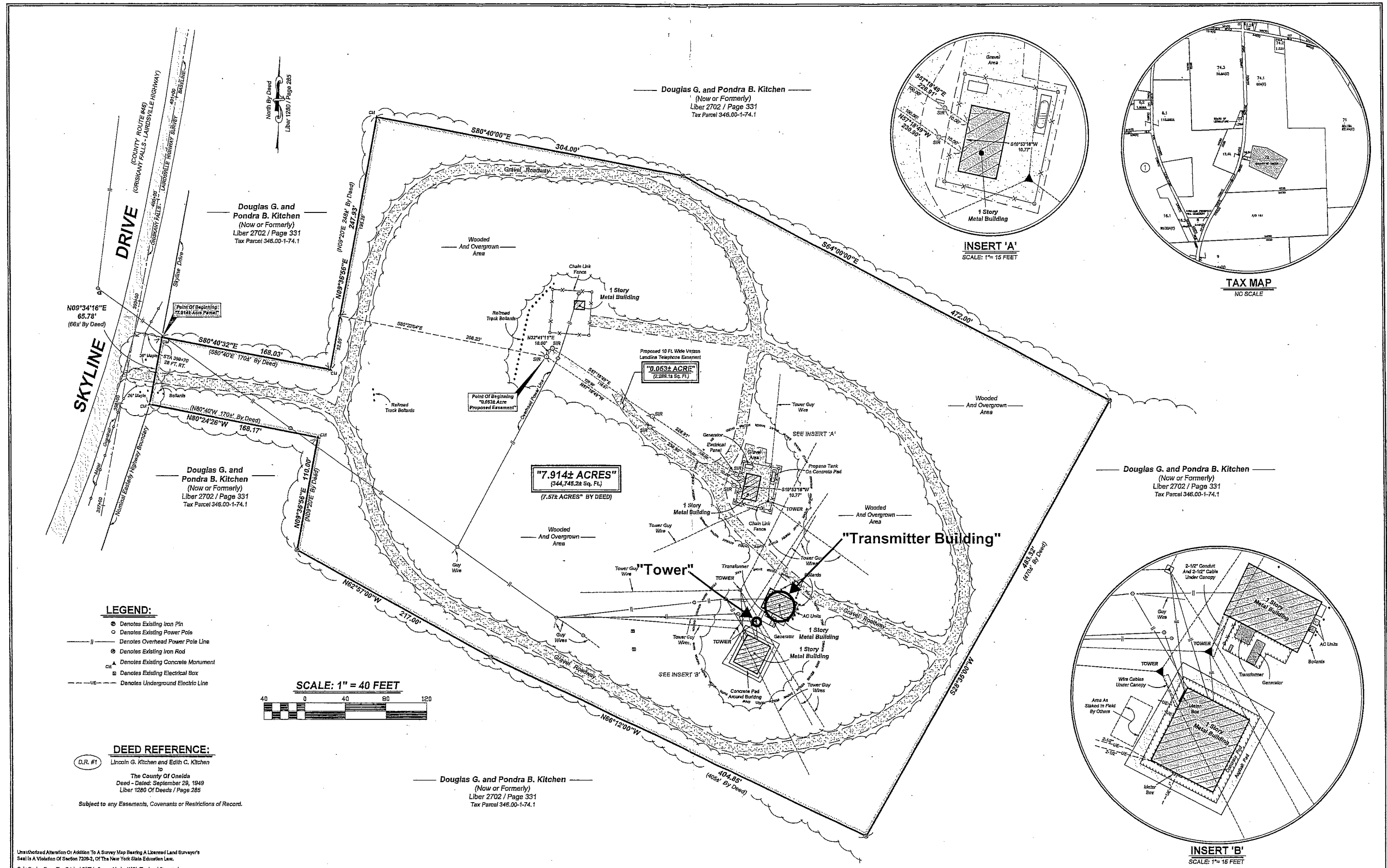
Rick Snavelly
CEO/General Manager

Approved:

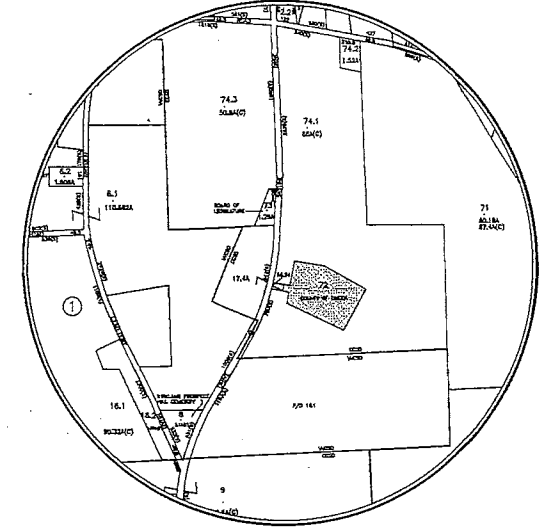
By:

Linda B. Lark
Assistant County Attorney

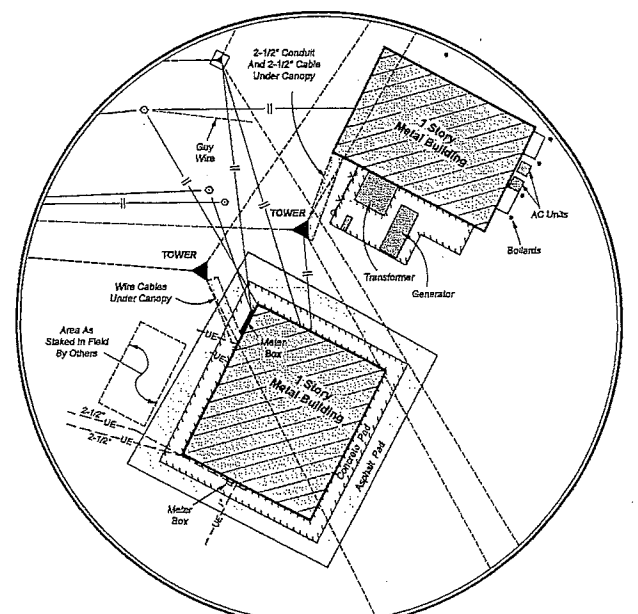
EXHIBIT A



INSERT 'A'
SCALE: 1" = 15 FEET

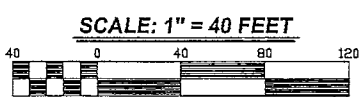


TAX MAP
NO SCALE



INSERT 'B'
SCALE: 1" = 15 FEET

- LEGEND:**
- ⊙ Denotes Existing Iron Pin
 - ⊙ Denotes Existing Power Pole
 - Denotes Overhead Power Pole Line
 - ⊙ Denotes Existing Iron Rod
 - CM Denotes Existing Concrete Monument
 - ⊠ Denotes Existing Electrical Box
 - Denotes Underground Electric Line



DEED REFERENCE:
D.R. #1 Lincoln G. Kitchen and Edith C. Kitchen to The County of Oneida Deed - Dated: September 25, 1949 Liber 1280 Of Deeds / Page 285 Subject to any Easements, Covenants or Restrictions of Record.

Douglas G. and Ponda B. Kitchen (Now or Formerly) Liber 2702 / Page 331 Tax Parcel 346.00-1-74.1

Unauthorized Alteration Or Addition To A Survey Map Bearing A Licensed Land Surveyor's Seal Is A Violation Of Section 7206-2, Of The New York State Education Law.
Only Copies From The Original Of This Survey Marked With The Land Surveyors Signature And An Original Embossed Or Ink Seal Shall Be Considered Valid True Copies.

NO.	DATE	REVISION	BY
1	07-25-11	Revision To Show Updated Survey And Proposed 10 FL Wide Verizon Landline Telephone Easement	JED

THE UNDERSIGNED HEREBY CERTIFIES THAT THIS IS AN ACCURATE MAP OF AN ACTUAL FIELD SURVEY DATED: October 6, 2005 AND THAT BOTH MAP AND SURVEY ARE CORRECT.
BRUCE W. SNYDER L.S. #350195

Lands Of
The County Of Oneida
3822 Skyline Drive
Town Of Kirkland - Oneida County
State Of New York

DELTA
ENGINEERS, ARCHITECTS, & LAND SURVEYORS
Formerly Snyder Engineering & Land Surveying, LLP
4873 NYS Route 5, Vernon, NY 13476
Tel: 315.953.4200
Fax: 315.953.4202
Website: www.deltaengineers.com

Designed by:	J. Angilo
Drawn by:	B. Snyder
Reviewed by:	B. Snyder
Date:	October 6, 2011
Last Revised:	July 26, 2011
Scale:	1" = 40 Feet
Project Number:	2011.294.001
File Number:	05-139-00

SHEET
1
OF
1

Being Tax Parcel 346.000-1-72

ANTHONY J. PICENTE JR.
County Executive

DENNIS S. DAVIS
Commissioner



DIVISIONS:
Buildings & Grounds
Engineering
Highways, Bridges & Structures
Reforestation

Oneida County Department of Public Works

5999 Judd Road Oriskany, New York 13424
Phone: (315) 793-6213 Fax: (315) 768-6299

FN 20 18-243

June 13, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, NY 13501

PUBLIC WORKS

WAYS & MEANS

Dear County Executive Picente,

The following bridge maintenance, rehabilitation, and reconstruction project has been added to the State Transportation Improvement Plan.

PIN	BIN	Road/Feature	Municipality	Funding	
2754.41	2206280	Clinton Street bridge over Sauquoit Creek	Town of New Hartford	Federal	\$1,689,600.00
				Town	\$422,400.00
				Total	\$2,112,000.00

This bridge is owned and maintained by the Town of New Hartford. Oneida County has offered assistance to the Town of New Hartford regarding PIN 2754.40. In accordance with the NYSDOT Procedures for Locally Administered Federal Aid Projects, Oneida County solicited an Expression of Interest (EOI) from each firm on the NYSDOT Region 2 LDSA County list. Each EOI was reviewed and scored on a qualifications basis. State and Federal procedures prohibit the use of consulting fees as a determining factor. It was decided that Barton & Loguidice, D.P.C., is the most qualified consultant for this project. Subsequently, the Department of Public Works negotiated a proposed contract with Barton & Loguidice, D.P.C., to prepare plans and specifications. Construction inspection services will be added at a later date via addendum.

On March 16, 2018 the Oneida County Board of Acquisition and Contract accepted a proposal from Barton & Loguidice, D.P.C. with a Lump Sum fee of \$270,000.00 to prepare a plans and specifications for rehabilitation of the Clinton Street Bridge over Sauquoit Creek in the Town of New Hartford.

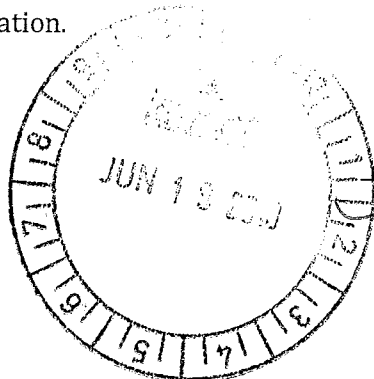
If acceptable, please forward the enclosed agreement for the aforementioned services to the Oneida County Board of Legislators for consideration.

Thank you for your continued support.

Sincerely,

Dennis S. Davis
Commissioner

cc: Mark E. Laramie, PE, Deputy Commissioner



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
County Executive

Date 6-18-18

Competing Proposal _____
 Only Respondent _____
 Sole Source RFP _____
 Other X

ONEIDA COUNTY BOARD OF LEGISLATORS

Name & Address of Vendor: Barton & Loguidice, D.P.C.
 443 Electronics Parkway
 Liverpool, NY 13088

Title of Activity or Service: Professional Consulting Services

Proposed Dates of Operation: Start on Execution - 09/30/2021

Client Population/Number to be Served: N/A

Summary Statements

1) Narrative Description of Proposed Services:

The following bridge maintenance, rehabilitation, and reconstruction project has been added to the State Transportation Improvement Plan.

PIN	BIN	Road/Feature	Municipality	Funding	
2754.41	2206280	Clinton Street bridge over Sauquoit Creek	Town of New Hartford	Federal	\$1,689,600.00
				Town	\$422,400.00
				Total	\$2,112,000.00

This bridge is owned and maintained by the Town of New Hartford. Oneida County has offered assistance to the Town of New Hartford regarding PIN 2754.41. In accordance with the NYSDOT Procedures for Locally Administered Federal Aid Projects, Oneida County solicited an Expression of Interest (EOI) from each firm on the NYSDOT Region 2 LDSA County list. Each EOI was reviewed and scored on a qualifications basis. State and Federal procedures prohibit the use of consulting fees as a determining factor. It was decided that Barton & Loguidice, D.P.C., is the most qualified consultant for this project. Subsequently, the Department of Public Works negotiated a proposed contract with Barton & Loguidice, D.P.C., to prepare plans and specifications. Construction inspection services will be added at a later date via addendum.

On March 16, 2018 the Oneida County Board of Acquisition and Contract accepted a proposal from Barton & Loguidice, D.P.C. with a Lump Sum fee of \$270,000.00 to prepare a plans and specifications for rehabilitation of the Clinton Street bridge over Sauquoit Creek in the Town of New Hartford.

2) Program/Service Objectives and Outcomes: N/A

3) Program Design and Staffing: N/A

4) Funding

Account #:	H-569
Total Funding Requested:	\$270,000.00
Oneida County Dept. Funding Recommendation:	\$270,000.00

Proposed Funding Sources

Federal:	\$216,000.00
New York State:	\$0.00
Town of New Hartford:	\$54,000.00
Oneida County:	\$0.00

Past Performance Data: N/A

O.C. Department Staff Comments: None

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT, made this day of _____ 2018, by and between the COUNTY OF ONEIDA (hereinafter called "County"), a municipal corporation organized and existing under the laws of the State of New York, with its principal office located at 800 Park Avenue, Utica, NY 13501, the TOWN OF NEW HARTFORD (hereinafter called "Town"), a municipal corporation organized and existing under the laws of the State of New York, with its principal office located at 48 Genesee Street, New Hartford, NY 13413, and BARTON & LOGUIDICE, D.P.C. (hereinafter called "Consultant"), a domestic professional corporation, organized and existing under the laws of the State of New York with its place of business located at 443 Electronics Parkway, Liverpool, NY 13088 (each a "Party" and collectively the "Parties").

WITNESSETH:

WHEREAS, County and Town require consulting services to assist in preparing detailed plans and specifications for rehabilitation of the Clinton Street Bridge over Sauquoit Creek Bridge (BIN 2206280). Project scope includes bridge replacement with minor approach work; and

WHEREAS, Consultant has submitted a proposal to provide such plans and specifications, more fully defined herein; and

WHEREAS, The Oneida County Board of Acquisition & Contract has authorized this Agreement;

NOW, THEREFORE, it is mutually agreed that for the consideration hereinafter set forth, Consultant shall provide certain services identified in **Attachment A** (hereinafter "the Services").

1. TERM

1.1. The term of this Agreement shall commence upon a written Notice to Proceed and shall terminate no later than September 30, 2021.

2. NOTICE TO PROCEED

2.1. The Notice to Proceed shall be in the form of a letter signed by County's Project Manager, authorizing the Services described herein. No Services shall commence until the Notice to Proceed is issued.

3. COMPENSATION

3.1. Consultant will be paid a Lump Sum fee of **Two Hundred Seventy Thousand dollars and Zero cents (\$270,000.00)**, for all services identified in **Attachment A**. Payment shall be made on a basis of Services completed.

3.2. **Attachment B** and **Attachment C** shall be used to calculate payment due for Services performed and reimbursable expenses.

3.2.1. Consultant shall provide detailed cost accounting for all reimbursable expenses.

3.3. In case of changes affecting project scope resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, Consultant shall promptly notify County of the identified changes and advise County of the recommended solution. Services shall not be performed on such changes without prior written authorization of County. Payments for additional services performed shall be agreed upon in writing prior to commencement of such additional services and payment for such additional services shall be made based on the percentage of services completed and/or on completion of major tasks.

3.4. County reserves the right to withhold payment due to Consultant's failure to properly perform its obligations under this Agreement. County may withhold payment for reasons including but not limited to (1) defective services, (2) third party claims, (3) failure of Consultant to pay its sub-consultants, or (4) damage to County. County may correct any conditions which do not meet requirements of this Agreement and deduct the cost from the amounts due under this Agreement.

3.5. Additional compensation, at a mutually agreed upon rate, will be paid if Consultant's services are required to defend claims or litigation resulting from this project, that are not the fault of Consultant.

3.6. It is understood and agreed that Consultant shall not be entitled to payment for any costs incurred prior to the effective date or following the termination date of this Agreement.

4. **EXECUTORY OR NON-APPROPRIATION CLAUSE**

4.1. The obligations of the Parties are conditioned upon the continued availability of government funds for the purposes set forth in this Agreement. Should funds become unavailable or should appropriate officials fail to approve sufficient funds for completion of the Services set forth in this Agreement, County shall have the option to immediately terminate this Agreement upon providing written notice to Consultant by certified mail. In such an event Consultant shall receive payment for costs actually incurred prior to termination, and shall not receive actual or consequential damages as a result of termination.

5. SCOPE OF SERVICES

5.1. This Agreement represents the entire and integrated Agreement between the Parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.

5.2. Consultant agrees to provide Services in accordance with the project description and scope of services, defined in **Attachment A**.

5.3. Consultant shall furnish any equipment, materials, and/or supplies necessary for the performance of its Services under this Agreement, and shall be responsible for providing its employees, agents and servants with all equipment necessary to comply with all applicable federal and state safety standards.

6. PERFORMANCE OF SERVICES

6.1. Consultant affirms that it does not have any financial interest or conflict of interest that would prevent Consultant from providing unbiased, impartial service under this Agreement.

6.2. Consultant's Services shall be completed and submitted in accordance with industry standards.

6.3. It is understood and agreed that Consultant has the professional skills necessary to perform the work agreed to be performed under this Agreement, that County relies upon the professional skills of Consultant to do and perform Consultant's duties.

6.4. Consultant agrees to maintain in confidence and not disclose to any person or entity, without County's prior written consent, any confidential information, knowledge or data relating to the products, processes, or operations of County or Town. The covenants contained in this paragraph shall survive the termination of this Agreement for whatever cause.

6.5. Consultant represents that it has the experience, licenses, qualifications, staff and expertise to perform said Services in a professional and competent manner.

6.6. Consultant shall be solely responsible for determining the method, details and means of performing the Services, except where Federal, State or Local Laws and Regulations impose specific requirements on performance of the same.

6.7. Consultant is solely responsible for paying all of its business expenses related to furnishing the Services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

6.8. Consultant acknowledges and agrees that it and its employees and subconsultants have

no authority to enter into contracts that bind County or Town, or create obligations on the part of County or Town, without the prior written authorization.

6.9. Consultant understands that prompt and ready completion of the Services is required. Completion dates, if specified herein, may only be modified by mutual written agreement of the Parties. Consultant agrees to diligently perform the Services to be provided under this Agreement.

6.10. Consultant shall immediately notify County in writing of any difficulty in complying with requirements of this Agreement.

7. NON-ASSIGNMENT

7.1. In compliance with New York General Municipal Law Section 109, Consultant agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement, or of its right, title or interest therein, or its power to execute this Agreement, to any other person or corporation without the previous consent, in writing, by County.

8. SUBCONTRACTS

8.1. A subconsultant is a person who has an agreement with Consultant to perform any of the Services.

8.2. Consultant agrees to furnish to County, prior to the execution of this Agreement, a list of names of subconsultants to whom it proposes to award any portion of the Services. County shall be provided a copy of any and all agreement(s) between Consultant and any subconsultants regarding the award of any portion of the Services within ten (10) days of their final execution.

8.3. Agreements between Consultant and the subconsultants shall be in accordance with the terms of this Agreement and shall include the conditions of this Agreement including all Exhibits. Consultant shall be solely responsible and shall remain liable for the performance of the Services.

9. CHANGE IN SERVICES

9.1. In case of changes affecting the Scope of Services resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, Consultant shall promptly notify County of the identified changes and advise County of the recommended solution. Services shall not be performed on such changes without prior written authorization.

10. PROJECT MANAGERS

10.1. County and Town designates the Deputy Commissioner, Division of Engineering, as

their Project Manager, who shall be responsible for administering and interpreting the terms and conditions of this Agreement, for matters relating to Consultant's performance under this Agreement, and for liaison and coordination between the Parties. In the event County and Town wish to change their representative, Consultant will be notified in writing.

10.2. Consultant designates Matthew Patterson as its Project Manager, who shall have immediate responsibility for the performance of the work and for all matters relating to performance under this Agreement. Any change in Consultant designated personnel or subconsultant shall be subject to approval by the Project Manager for County and Town.

11. NOTICES

11.1. Any notice to County and Town may be delivered personally or sent by United States mail, postage prepaid to the Deputy Commissioner, Division of Engineering, 5999 Judd Road, Oriskany, NY 13424, or at such other address last furnished in writing.

11.2. Any notice to Consultant may be delivered personally or sent by United States mail, postage prepaid, to Consultant's Project Manager at the address listed above, or at such other address last furnished in writing.

12. INDEPENDENT CONTRACTOR STATUS

12.1. For the purposes of this paragraph only, the term "Independent Contractor" shall be broadly construed to include Consultant and its subcontractor(s), and all of their collective employees, agents, officers, servants and any of their other personnel. The relationship of the Independent Contractor to County and Town shall be that of an independent contractor. The Independent Contractor shall not be deemed an employee of County or Town and therefore shall not make any claim, demand or application for any employee benefit including, not but not limited to, unemployment insurance, workers' compensation, retirement, paid absence, or health insurance. The Independent Contractor covenants and agrees that it will conduct itself in accordance with its status as an independent contractor, and shall not hold itself out as, nor claim to be, officers or employees of County or Town. County, Town, and the Independent Contractor shall have the right to participate in any conference, discussion or negotiation with any governmental agency regarding the Independent Contractor's status as an independent contractor.

12.2. Payments to Consultant shall be reported on IRS Form 1099, and County shall not make any withholding for taxes or any other obligations. Consultant shall be solely responsible for all applicable taxes, payroll deductions, workers' compensation insurance,

and provision of health insurance where required. Consultant shall indemnify and hold County harmless from all loss or liability incurred by Consultant as a result of County not making such payments or withholdings.

13. ASSUMPTION OF RISK

13.1. Consultant solely assumes the following risks. The risk of unforeseen obstacles and difficulties in the performing of the Services, whether such risks are within or beyond the control of Consultant and whether such risks involve a legal duty, primary or otherwise, imposed upon County or Town.

13.2. To the fullest extent permitted by law, Consultant shall indemnify, defend, and hold County, Town, their officers, agents and employees (the "Indemnitees"), harmless against any and all claims (including but not limited to claims asserted by any employee of Consultant) and costs and expenses of whatever kind (including but not limited to payment or reimbursement of attorneys' fees and disbursements) allegedly arising out of or in any way related to the risks it assumes under this Section, operations of Consultant in the performance of this Agreement or from Consultant's failure to comply with any of the provisions of this Agreement or of the law. Such costs and expenses shall include all those incurred in defending the underlying claim and those incurred in connection with the enforcement of this Section by way of cross-claim, third-party claim, declaratory action or otherwise.

13.3. Neither the termination of this Agreement nor the making of the final payment shall release Consultant from its obligations under this Section. The enumeration elsewhere in this Agreement of particular risks assumed by Consultant or of particular claims for which it is responsible shall not be deemed to limit the effect of the provision of this Section or to imply that it assumes or is responsible for only risks or claims of the type enumerated.

13.4. This assumption of risk by Consultant is absolute, excepting only reckless or intentional acts of County, Town, or their officers, agents or employees.

14. INSURANCE REQUIREMENTS

14.1. Consultant shall purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) rating by A. M. Best.

14.2. Commercial General Liability (CGL) coverage with limits of not less than One Million

Dollars (\$1,000,000) each occurrence, and Two Million Dollars (\$2,000,000) Annual Aggregate. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products, completed operations, personal and advertising injury. County and Town shall be included as additional insureds, on a primary and non-contributing basis before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insureds. Consultant shall maintain said CGL coverage for itself and the additional insureds for the duration of this Agreement, and maintain completed operations coverage for itself and the additional insureds for at least three (3) years after completion.

14.3. Workers' Compensation and Employer's Liability, pursuant to statutory limits.

14.4. Business Automobile Liability with limits of at least One Million Dollars (\$1,000,000) each accident. Coverage must include liability arising out of all owned, leased, hired and non-owned automobiles. County and Town shall be included as additional insureds on a primary and non-contributing basis.

14.5. Excess/Commercial Umbrella coverage with limits of at least Five Million Dollars (\$5,000,000) per occurrence. County and Town shall be included as additional insureds. Excess/Commercial Umbrella coverage for such additional insureds shall apply as primary and non-contributing before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by or provided to the additional insureds.

14.6. Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Two Million Dollars (\$2,000,000) per claim.

14.7. Waiver of Subrogation: Consultant waives all rights against County, Town, and their agents, officers, and employees for recovery of damages to the extent these damages are covered by insurance maintained per requirements stated above.

14.8. County shall not issue a notice to proceed until certificates evidencing the insurance required by this Section have been provided to County. The certificates shall be on forms approved by County, and shall contain a provision that coverage afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to County. Acceptance of the certificates shall not relieve Consultant of any of the insurance requirements, nor decrease the liability of Consultant. County reserves the

right to require Consultant to provide insurance policies for review by County. Consultant grants County a limited power of attorney to communicate with Consultant's insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

15. REQUIRED PROVISIONS OF LAW

15.1. In performing under this Agreement, all applicable governmental laws, regulations, orders, ordinances and other rules of duly constituted authority will be followed and complied with in all respects by all Parties.

15.2. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been incorporated herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either Party, this Agreement shall be amended in writing, and signed by both Parties to make such insertion.

15.3. Consultant agrees that there shall be no discrimination against any person or group of persons, on account of race, color, religious creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership status, mental or physical disability, medical condition, genetic information, or sexual orientation in the performance of this Agreement. Consultant shall not establish or permit any such practice(s) of discrimination with reference to this Agreement or any part thereof. Consultants determined to be in violation of this section shall be deemed to be in breach of this Agreement.

16. BREACH

16.1. A breach of this Agreement shall include, but not be limited to, the following:

16.1.1. If any insurance or bonds required to be maintained pursuant to this Agreement shall fail to be obtained or shall be cancelled or revoked at any time or if Consultant shall fail to deliver any required insurance certificate or bond.

16.1.2. If any representation or warranty made by Consultant in this Agreement shall be incorrect or fallacious in any respect.

16.1.3. If Consultant shall file a voluntary petition in Bankruptcy Court, or shall be the subject of an involuntary petition in Bankruptcy Court, or shall be adjudged as bankrupt or insolvent, or shall file any petition seeking any reorganization, liquidation, dissolution or similar relief under the present or any future statute, or shall seek or acquiesce in the appointment of any trustee, receiver or liquidator of Consultant.

16.1.4. If Consultant assigns its rights and duties under this Agreement without written consent of County.

16.1.5. County shall review Consultant's performance. If it is found Consultant is not meeting Agreement conditions, it will be formally notified. If the condition is not corrected, then this will be cause for Agreement termination.

16.1.6. If default shall be made by Consultant in keeping, observing or performing any of the terms or covenants contained in this Agreement, including any attachments or amendments.

16.2. If Consultant breaches this Agreement, County may declare Consultant in default and pursue all remedies provided herein and available at law. Without limiting the available remedies, County may proceed to perform the Services required under this Agreement and charge the expense thereby incurred against the monies to which Consultant would have been entitled under this Agreement or may contract with a third party for the performance of the Services and charge the cost and expense thereof in a like manner. In the event of a default in the performance of the Services, Consultant agrees to reimburse County for all costs, expenses and damages incurred by County in completing the Services in accordance with this Agreement.

16.3. In the event of a breach or threatened breach by either Party of its obligations under this Agreement, the other Party shall have the right to seek and obtain an injunction or other equitable relief, in addition to any other remedies provided by this Agreement, or by law.

17. TERMINATION

17.1. This Agreement may be terminated by County immediately for cause or upon ten (10) days written notice.

17.2. If this Agreement is terminated, Consultant shall be entitled to compensation for Services satisfactorily performed to the effective date of termination; provided however, that County may condition payment of such compensation upon Consultant's delivery to County of any and all documents, photographs, computer software, videotapes, and other materials provided to Consultant or prepared by Consultant for County in connection with this Agreement. Payment by County for the services satisfactorily performed to the effective date of termination shall be the sole and exclusive remedy to which Consultant is entitled in the event of termination of this Agreement and Consultant shall be entitled to no

other compensation or damages and expressly waives same.

17.3. This Agreement may be terminated by Consultant upon ten (10) days written notice to County only in the event of substantial failure by County or Town to fulfill obligations under this Agreement through no fault of Consultant.

18. DOCUMENT PRINTING/OWNERSHIP OF ORIGINAL DRAWINGS AND MANUSCRIPTS

18.1. Copies of computer diskettes, drawings and specification manuscripts in the possession of the County are to remain the property of County whether or not the project is completed. The Consultant shall provide additional copies to the County upon request. Consultant may retain copies for reference. These documents shall not be used by Consultant for other projects without prior written approval of County. County's use of this data for purposes other than originally intended without written verification or adoption by Consultant shall be at County's sole risk.

19. ADDENDUM

19.1. Consultant shall comply with **Attachment D**, the Addendum - Standard Oneida County Conditions.

20. NON WAIVER

20.1. No provision of this Agreement shall be deemed to have been waived by either Party, unless such waiver shall be set forth in a written instrument executed by such Party. Any waiver by any of the Parties to any of the provisions of this Agreement shall not imply preceding or subsequent waiver of that or any other provision.

21. CHOICE OF LAW/FORUM

21.1. This Agreement shall be construed and enforced in accordance with the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

21.2. Any litigation relating to or arising out of this Agreement shall be heard in a New York State Court of competent jurisdiction sitting in Oneida County, New York or in the United States District Court for the Northern District of New York.

22. ORDER OF PRECEDENCE

22.1. In case of conflicts between the provisions of this Agreement and the attachments, or between the attachments, the following order of precedence shall control:

22.1.1. **Attachment D**

22.1.2. This Agreement

22.1.3. **Attachment A**

22.1.4. Attachment C

22.1.5. Attachment B

23. SUCCESSORS AND ASSIGNS

23.1. This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, legal or personal representatives, successors, and assigns.

24. SEVERABILITY

24.1. If any provision of this Agreement, or any part thereof, is or becomes void or unenforceable by force or operation of law, the Parties agree that this Agreement shall be reformed with a valid and enforceable provision that comes as close as possible to expressing the original intention. Further, the Parties agree that all other provisions shall remain valid and enforceable.

25. ENTIRE AGREEMENT

25.1. This Agreement is the final, binding agreement of the Parties and supersedes all previous negotiations and representations, written or oral, on the subject matter.

26. COUNTERPARTS

26.1. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be deemed one and the same instrument.

27. INCORPORATION BY REFERENCE

27.1. The following attachments, attached hereto, are deemed incorporated into this Agreement, whether or not actually attached:

27.1.1. Attachment A – Scope of Services

27.1.2. Attachment B – Staffing Assumptions

27.1.3. Attachment C – Fee Summary

27.1.4. Attachment D – Standard Oneida County Conditions

28. AUTHORITY TO ACT/SIGN

28.1. Consultant's signatory hereby represents and certifies that her has the power and authority to execute and deliver this Agreement and to carry out the obligations hereunder. The execution and delivery by Consultant's signatory of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by Consultant; no other action on the part of Consultant or any other person or entity, or by law or otherwise, are necessary to authorize this Agreement or to enter into this

Agreement, or to consummate the transactions contemplated herein.

29. ADVICE OF COUNSEL

29.1. Each Party acknowledges that, in executing this Agreement, such Party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Agreement.

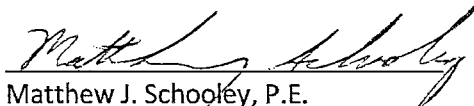
IN WITNESS WHEREOF, the respective Parties herein have hereunto set their hands and seals the day and year first above written.

COUNTY OF ONEIDA

Anthony J. Picente, Jr.
Oneida County Executive

Date:

BARTON & LOGUIDICE, D.P.C.

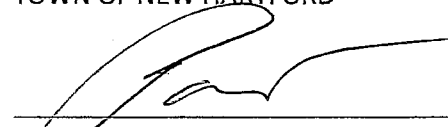


Matthew J. Schooley, P.E.
Senior Vice President

5/22/18

Date:

TOWN OF NEW HARTFORD



Paul A. Miscione
Town Supervisor

6/14/18

Date:

APPROVED BY

Linda Bylica Lark
Assistant County Attorney

Date:

ATTACHMENT A

**Scope of Services
or
Task List**

Section 1 - General

1.01 Project Description and Location

This project is known as:

PIN: 2754.41

Project Description: Clinton Street over Sauquoit Creek Bridge

Project Limits: The project includes rehabilitation/replacement of the existing bridge carrying Clinton Street over Sauquoit Creek and approximately 100 feet of approach reconstruction, including 1 rail crossing.

Sponsor(s): Oneida County

County: Oneida

All work performed by the **Consultant** at the **Consultant's** initiative must be within the current project limits specified above.

1.02 Project Manager

The **Sponsor's** Project Manager for this project shall be Tim Decker, who can be reached at (315) 793-6228; Fax (315) 768-6299.

All correspondence to the **Sponsor** should be addressed to:

Oneida County Department of Public Works
6000 Airport Road
Oriskany, New York 13424

The Project Manager should receive copies of all project correspondence directed other than to the **Sponsor**.

1.03 Project Classification

This project is assumed to be a Class II action under USDOT Regulations, 23 CFR 771.

Classification under the New York State Environmental Quality Review Act (SEQRA) Part 617, Title 6 of the Official Compilation of Codes, Rules, and Regulations of New York State (6 NYCRR Part 617) is assumed to be Type II.

1.04 Categorization of Work

Project work is generally divided into the following sections:

Section 1	General
Section 2	Data Collection & Analysis
Section 3	Preliminary Design
Section 4	Environmental
Section 5	Right-of-Way
Section 6	Detailed Design
Section 7	Advertising, Bid Opening and Award
Section 8	Construction Support
Section 9	Construction Inspection (by Supplemental Agreement)
Section 10	Estimating & Technical Assumptions

When specifically authorized in writing to begin work the **Consultant** will render all services and furnish all materials and equipment necessary to provide the **Sponsor** with reports, plans, estimates, and other data specifically described in Sections 1, 2, 3, 4, 6, 7, 8, and 10.

1.05 Project Familiarization

The **Sponsor** will provide the **Consultant** with the following information:

- Approved project initiation document (Initial Project Proposal, TIP application or similar documentation) indicating project type, project location, cost estimate, schedule, and fund source(s).
- Transportation needs.
- Plans for future related transportation improvements or development in the area of the project.
- Traffic data.
- Accident records and history.
- Most recent bridge inspection and condition report, NYSDOT weighted-average bridge condition rating, FHWA sufficiency rating, and NYSDOT Bridge Management System rating.
- Record as-built plans (if available)
- Pavement history.
- Anticipated permits and approvals (initial determination).
- Terrain data requirements for design.
- Available project studies and reports.
- Other relevant documents pertaining to the project.

The **Consultant** will become familiar with the project before starting any work. This includes a thorough review of all supplied project information and a site visit to become familiar with field conditions.

1.06 Meetings

The **Consultant** will prepare for and attend all meetings as directed by the Sponsor's Project Manager. Meetings may be held to:

- Present, discuss, and receive direction on the progress and scheduling of work in this contract.
- Present, discuss, and receive direction on project specifics.
- Discuss and resolve comments resulting from review of project documents, advisory agency review, and coordination with other agencies.
- Preview visual aids for public meetings.
- Manage subconsultants and subcontractors.

The **Consultant** will be responsible for the preparation of all meeting minutes; the minutes will be submitted to meeting attendees within one (1) week of the meeting date.

1.07 Cost and Progress Reporting

For the duration of this contract, the **Consultant** will prepare and submit to the **Sponsor** on a monthly basis a Progress Report in a format approved by the **Sponsor**. The Progress Report must contain the "Cost Control Report". The beginning and ending dates defining the reporting period must correspond to the beginning and ending dates for billing periods, so that this reporting process can also serve to explain billing charges. (In cases where all work under this contract is officially suspended by the **Sponsor**, this task will not be performed during the suspension period). The **Consultant** will update the project schedule on a monthly basis and provide the updated schedule to the **Sponsor**.

1.08 Policy and Procedures

- The design of this project will be progressed in accordance with the current version of the *NYSDOT Procedures for Locally Administered Federal Aid Projects (PLAFAP) Manual* including the latest updates.
- If there are conflicts between local policies and procedures and those listed in the *PLAFAP* those listed in the *PLAFAP* take precedence.]

1.09 Standards & Specifications

The project will be designed and constructed in accordance with the current edition of the NYSDOT Standard Specifications for Construction and Materials, including all applicable revisions.

1.10 Subconsultants

The **Consultant** will be responsible for:

- Coordinating and scheduling work, including work to be performed by subconsultants.
- Technical compatibility of a subconsultant's work with the prime consultant's and other subconsultants' work.

1.11 Subcontractors

Procurement of subcontractors must be in accordance with the requirements set forth in the *NYSDOT PLAFAP Manual*.

Section 2 - Data Collection & Analysis

2.01 Design Survey

A. Ground Survey

The **Consultant** will provide terrain data required for design by means of a topographic field survey.

B. Stream Survey

The **Consultant** will perform field survey necessary to develop stream cross sections for the hydraulic analysis of Sauquoit Creek. The location and width of the sections will be sufficient to satisfactorily perform a hydraulic analysis of the named stream.

C. Survey of Wetland Boundaries

The **Consultant** will perform the field survey necessary to accurately locate delineated wetland boundaries. This survey should be performed as soon after delineation as possible.

D. Supplemental Survey

The **Consultant** will provide supplemental survey when needed for design purposes and to keep the survey and mapping current.

E. Standards

Survey will be done in accordance with the standards set forth in the *NYS DOT Land Surveying Standards and Procedures Manual* and in accordance with local standards described in Section 10 of the SOS.

2.02 Design Mapping

The **Consultant** will provide the following design mapping:

- 1:20 scale mapping with 2.0 foot contour intervals.

The **Consultant** will provide supplemental mapping when needed for design purposes and to keep the mapping current.

2.03 Determination of Existing Conditions

The **Consultant** will determine, obtain or provide all information needed to accurately describe in pertinent project documents the existing conditions within and adjacent to the project limits.

2.04 Accident Data and Analysis

The **Sponsor** will provide accident records for the last three years for roads within the project limits plus one-tenth of a mile immediately outside of the project limits.

The **Consultant** will prepare collision diagrams and associated summary sheets, and note any clusters of accidents or patterns implying inadequate geometrics, or other safety problems, within the project limits. ***It is anticipated that an accident analysis will not be required.***

2.05 Traffic Counts

The **Consultant** will provide traffic count data for existing conditions, growth factors for forecasting, and forecast data, in accordance with the requirements noted in the *NYSDOT Traffic Monitoring Standards for Contractual Agreements Manual*.

The **Consultant** will provide flow diagrams for appropriate peak periods (e. g., am, noon, and pm) showing existing and design year volumes on the mainline, on each approach of all intersections, and at major traffic generators. ***It is anticipated that flow diagrams will not be required.***

2.06 Capacity Analysis

The **Consultant** will perform capacity analyses using the latest version of the Transportation Research Board's *Highway Capacity Manual* at mainline and intersection locations within the project limit to determine:

- Existing level of service.
- Design year level of service.
- Estimates of the duration of the poor level of service where it occurs during commuter travel periods.

The **Consultant** will develop project travel speed and delay estimates for the peak hour and average hour for:

- Existing traffic conditions.
- Design year traffic for the null alternative.

2.07 Future Plans for Roadway and Coordination with Other Projects

The **Sponsor** will provide a brief written statement specifying whether or not plans exist to reconstruct or widen the highway segments immediately adjacent to the project within the next twenty years.

The **Sponsor** will determine the influence, if any, of other existing or proposed projects or proposed developments in the vicinity of this project (e.g., whether a nearby highway widening would influence this project's design traffic volumes).

The **Sponsor** will provide all necessary information pertaining to the other projects or developments.

2.08 Soil Investigations

The **Consultant** will determine the boring locations, diameters, and sampling intervals; designate soil boring numbers; stake out the locations; take the soil borings; document the resulting subsurface information; and survey and map the actual boring locations.

2.09 Hydraulic Analysis

The **Consultant** will perform a hydraulic analysis in accordance with the principles outlined in the Section 3.4 of the *NYSDOT Bridge Manual*.

2.10 Bridges To Be Rehabilitated

A. Inspection

The **Consultant** will perform a field inspection of the bridge to determine its condition, to establish the rehabilitation work necessary, and to prepare a Level 1 load rating. The intent is to supplement the inspection done as part of the NYSDOT's on-going bridge inspection program, not to duplicate it.

The **Consultant** will perform and document the findings of an in-depth inspection of each bridge in accordance with the current AASHTO "Manual for Condition Evaluation of Bridges."

B. Load Rating of Existing Bridge (N/A)

The **Consultant** will perform a Level 1 rating of the existing bridge in accordance with NYSDOT's *Uniform Code of Bridge Inspection*. Immediately upon completion, the **Consultant** will transmit two copies of the load rating calculations and summary sheets to the **Sponsor** and the Regional Local Projects Liaison for filing.

Section 3 - Preliminary Design

3.01 Design Criteria

The **Consultant** will identify the applicable design standards to be used for this project, and will establish project-specific design criteria in accordance with the *NYSDOT Project Development Manual*.

The **Sponsor** will approve the selected project design criteria and will obtain NYSDOT concurrence (either by a written submission or at a meeting).

Based on the selected design criteria, the **Consultant** will identify all existing non-standard features that are within and immediately adjacent to the project limits. Non-standard features that correlate with a high accident rate will be noted.

3.02 Development of Alternatives

A. Selection of Design Alternative(s)

The **Consultant** will identify and make rudimentary evaluations of potential design alternative concepts that would meet the **Sponsor's** defined project objectives. These evaluations are not to be carried beyond the point of establishing the feasibility of each concept as a design alternative; only those significant environmental and geometric design constraints that bear on the feasibility should be identified.

For each concept and alignment, the **Consultant** will prepare rudimentary sketches of plan, profile, and typical section views which show:

- **On plan:** proposed centerlines; pavement edges; curve radii and termini; and existing ROW limits.
- **On profile:** theoretical grade lines; critical clearances; vertical curve data; grades; and touchdown points.
- **On typical section:** lane, median, and shoulder widths; ditches; gutters; curbs; and side slopes.
- **Where necessary:** important existing features.
- **Where pertaining to feasibility:** significant environmental and geometric design constraints, labeled as such.

These sketches will include only the minimum information needed to select design alternatives to be studied in further detail.

The **Consultant** will meet with the **Sponsor** to discuss the concepts, using the sketches as discussion aids to describe the relative order-of-magnitude costs, advantages, disadvantages, and problem areas of each. From these concepts the **Sponsor** will select one, or in some cases more, design alternative(s) for further development.

B. Detailed Evaluations of Alternative(s)

The **Consultant** will further evaluate each design alternative and the null alternative with specific engineering analyses and considerations. Analyses will be conceptual and limited to determining the relative suitability of each design alternative, and will include:

- Design geometry, including the identification and comparison of alignment constraints and (where applicable) justification for retaining nonstandard design features, per the *NYSDOT Highway Design Manual*.
- Environmental constraints and potential environmental impact mitigation measures (identified under Section 4 tasks).
- Traffic flow and safety considerations, including signs, signals, and level of service analysis for intersections.
- Pavement.
- Structures, including bridges, retaining walls, major culverts, and building alterations (limited to establishing basic concepts, accommodating clearances and stream flow, and estimating costs). Bridge investigative work (inspection, deck coring, etc.) is covered under Section 2.
- Drainage.
- Maintenance responsibility.
- Maintenance and protection of traffic during construction.
- Soil and foundation considerations.
- Utilities.
- Railroads.
- Right-of-way acquisition requirements.
- Conceptual landscaping (performed by a Registered Landscape Architect).
- Accessibility for pedestrians, bicyclists and the disabled.
- Lighting
- Construction cost factors.

The **Consultant** will prepare the following drawings for each design alternative analyzed:

- 1:20 plans showing (as a minimum) stationing centerlines; roadway geometrics; major drainage features; construction limits; cut and fill limits; and proposed right-of-way acquisition lines.
- Profiles, at a scale of 1:20 horizontal and 1:40 (maximum) vertical, showing (as a minimum) the vertical datum reference; significant elevations; existing ground line; theoretical grade line; grades; vertical curve data including sight distances; critical clearances at structures; centerline stations and equalities; construction limits; and superelevation data.
- Typical sections showing (as a minimum) lane, median, and shoulder widths, bridge rails; guide rails; ditches; gutters; curbs; and side slopes.

3.03 Cost Estimates

The **Consultant** will develop, provide, and maintain a cost estimate for each design alternative.

The **Consultant** will update the estimate periodically and as necessary to incorporate significant design changes.

3.04 Preparation of Draft Design Approval Document

For this project the Design Approval Document (DAD) will be a **Project Summary Report/Final Design Report (IPP/FDR)**.

The **Sponsor** will make all determinations not specifically assigned to the **Consultant** which are needed to prepare the Draft DAD.

The **Consultant** will prepare a DAD, which will include the results of analyses and/or studies performed in other Sections of this document. The DAD will be formatted as specified in the NYSDOT Project Development Manual (PDM).

The **Consultant** will submit an electronic copy of the DAD to the **Sponsor** for review. The **Sponsor** will review the DAD and provide the **Consultant** with review comments. The **Consultant** will revise the DAD to incorporate the comments.

3.05 Advisory Agency Review

The **Consultant** will provide the **Sponsor** with an electronic copy of the signed DAD for distribution to advisory agencies.

The **Consultant** will distribute the DAD to the advisory agencies.

The **Consultant** will assist the **Sponsor** in evaluating and preparing individual responses to the review comments received.

3.06 Public Information Meeting and/or Public Hearing

A. Public Information Meeting

The **Consultant** will assist the **Sponsor** at one public information meeting with advisory agencies, local officials, and citizens, at which the **Consultant** will provide visual aids and present a technical discussion of the alternatives.

The **Sponsor** will arrange for the location of a public information meeting. The **Consultant** will assist the **Sponsor** with appropriate notification.

The Public Information Meeting will occur just prior to the Detailed Development of Alternatives. The purpose for this meeting will be to solicit concerns relative to the alternative, for use by the County in selecting a preferred alternative to advance, together with the null alternative, to the Detailed Development of Alternatives and Design Report phase.

The **Consultant** will assist the **Sponsor** with appropriate notification and will produce, modify as necessary, and provide 30 copies of an informational brochure for distribution.

3.07 Preparation of Final Design Approval Document

The **Sponsor** will obtain all necessary approvals and concurrences, and will publish all applicable legal notices with assistance from the **Consultant**.

The **Consultant** will prepare the Design Recommendation, and will modify the DAD to include the Design Recommendation, re-title the DAD in accordance with the *PDM* Manual, and update existing conditions and costs as necessary. The **Consultant** will incorporate changes resulting from the advisory agency review and all public information meetings and public hearings.

The **Consultant** will submit an electronic copy of the Final DAD to the **Sponsor** for review. The **Sponsor** will review the Final DAD and provide the **Consultant** with review comments. The **Consultant** will revise the Final DAD to incorporate the comments. The **Consultant** will send one copy to the County.

The **Sponsor** will submit an electronic copy of the Final DAD to NYSDOT for a Final Environmental Determination. NYSDOT will make the determination or obtain FHWA's determination. If necessary, NYSDOT will transmit the Final DAD to FHWA for final review and concurrence. The **Consultant** will again revise the Final DAD to incorporate changes (assumed minor) resulting from the NYSDOT and/or FHWA review.

The **Sponsor** will grant or obtain, from or through the NYSDOT, Design Approval.

Section 4 - Environmental

4.01 NEPA Classification

The **Consultant** will verify the anticipated NEPA Classification.

If the project is assumed to be a Class II action, then the **Consultant** will complete the NEPA Checklist, and forward the completed checklist to the **Sponsor** for forwarding to the NYSDOT (with the Final DAD) for a final NEPA determination.

This project is assumed to be a categorical exclusion with documentation.

The Lead Agency for NEPA is the Federal Highway Administration (FHWA).

4.02 SEQRA Classification

The **Consultant** will assist the **Sponsor** in complying with SEQRA (6 NYCRR Part 617). The **Sponsor** is the Lead Agency. Consultant tasks include, but are not limited to:

- Drafting letters to involved agencies to determine the lead agency.
- Drafting Environmental Assessment Form(s).
- Drafting a negative declaration.
- Drafting a positive declaration.
- Drafting notices.

The **Consultant** will document the results of SEQRA processing in the body of the Design Approval Document (DAD) and will include documentation of the final SEQRA determination in the Appendix of the DAD.

4.03 Smart Growth

The **Consultant** will complete the Smart Growth Checklist developed by NYSDOT to measure whether and to what extent a project conforms to the principles and objectives of Smart Growth and submit same to the **Sponsor** for attestation. (New York State's Smart Growth policy was adopted by amendment to the State Highway Law and is intended to minimize the "unnecessary cost of sprawl development." It requires public infrastructure projects to undergo a consistency evaluation and attestation using established Smart Growth Infrastructure Criteria. The consistency evaluation is measured with the Smart Growth checklist which can be found in the Chapter 7 Appendices on the PLAFAP Manual website.)

4.04 Screenings and Preliminary Investigations

The **Consultant** will screen and perform preliminary investigations to determine potential impacts resulting from the design alternative(s) for:

- General Ecology and Endangered Species
- Surface Water
- Ground Water
- State Wetlands
- Federal Jurisdictional Wetlands
- Floodplains

- Coastal Zone Management
- Navigable Waterways
- Historic Resources
- Parks
- Hazardous Waste
- Asbestos
- Noise
- Air Quality
- Energy
- Farmlands
- Invasive Species
- Visual Impacts
- Critical Environmental Areas
- Smart Growth
- Environmental Justice

Work will be performed, as summarized in the PLAFAP Manual and detailed in the PDM and the TEM, to determine whether further detailed analysis or study is required. The results of these screenings and preliminary investigations will be summarized in the appropriate sections of the DAD.

4.05 Detailed Studies and Analyses

Based on the work performed in Section 4.03, the **Consultant** will determine whether detailed analysis or study is required. Prior to commencing such detailed study or analysis, the **Sponsor** must concur with the **Consultant's** determination.

Detailed study or analysis work will be performed and documented as detailed in the PLAFAP Manual, as well as in the PDM and the TEM. Results of the detailed study or analysis will be summarized in the appropriate section of the DAD.

Detailed study or analysis will be done for:

- A. General Ecology and Endangered Species
- B. Ground Water
- C. Surface Water
- D. State Wetlands
- E. Federal Wetlands
- F. Floodplains
- G. Coastal Zone Management
- H. Historic Resources
- I. Parks - Section 4(f) and Section 6(f) Evaluations
- J. Hazardous Waste
- K. Asbestos
- L. Noise
- M. Air Quality
- N. Energy
- O. Farmlands
- P. Invasive Species
- Q. Visual Impacts

R. Critical Environmental Areas
S. Smart Growth
T. Environmental Justice

4.06 Permits and Approvals

The **Consultant** will obtain all applicable permit(s) and certification, including but not necessarily limited to:

- Article 24 Freshwater Wetlands Permit
- Article 25 Tidal Wetlands Permit
- FHWA Executive Order 11990 Wetlands Finding
- U.S. Coast Guard Section 9 Permit
- U.S. Army Corps of Engineers Section 10 Permit (Individual or Nationwide)
- U.S. Army Corps of Engineers Section 404 Permit (Individual or Nationwide)
- NYSDEC Section 401 Water Quality Certification
- NYSDEC State Pollution Discharge Elimination System (SPDES) Permit
- NYSDEC Article 15 Protection of Waters Permit
- Safe Drinking Water Act Section 1424(e)
- Migratory Bird Treaty Act
- Coastal Zone Consistency
- Scenic, Wild and Recreational Rivers

4.07 Public Hearing

The **Consultant** will provide exhibits to supplement reports for courtroom purposes.

Before the hearing, the **Consultant** will meet with the **Sponsor** to review the permit or certification application.

The **Consultant** will attend the hearing and, as required, provide expert testimony relevant to the particular application. The **Sponsor** will arrange for and provide any necessary legal assistance at the hearing. The **Consultant's** expert witnesses will have personally been in responsible charge of those aspects of the study to which their testimony is directed.

Section 5 – Right-of-Way (BY NYSDOT)

5.01 Abstract Request Map and/or Title Search

The **NYSDOT** will complete title searches (abstracts of title) for properties to be acquired by the **Sponsor**.

5.02 Right-of-Way Survey

The **Consultant** will perform survey needed to accurately determine existing right-of-way limits and establish side property lines.

5.03 Right-of-Way Mapping

The **Consultant** will meet with the **Sponsor/NYSDOT** to discuss the types of right-of-way acquisitions required and the limits of acquisition lines.

The **Consultant** will prepare acquisition maps in accordance with the format provided by the **NYSDOT**.

All right-of-way mapping will show dimensions in U.S. Customary units of measurement.

The **Consultant** will prepare all map revisions or additions which are determined necessary during the construction of the project.

5.04 Right-of-Way Plan

The **Consultant** will prepare the Right-of-Way Plan(s) in accordance with the PLAFAP Manual for use by the **NYSDOT**.

5.05 Right-of-Way Cost Estimates

The **NYSDOT** will develop cost estimates for the right-of-way to be acquired.

5.06 Public Hearings/Meetings

The **NYSDOT** will conduct any public hearings and/or informational meetings as may be required by the Eminent Domain Procedure Law.

5.07 Property Appraisals

The **NYSDOT** will prepare property appraisals establishing an opinion of value for any damages caused by the acquisition(s). They will also prepare estimates for the rental of occupied property(ies).

5.08 Appraisal Review

The **NYSDOT** will complete the property appraisals. The **NYSDOT** will recommend a value of "just compensation" to the Sponsor. The Sponsor must set the value of just compensation prior to offers being made to the property owners.

5.09 Negotiations and Acquisition of Property

Property offers must not be made until authorization is granted to the **Sponsor** by the **NYSDOT**.

The **NYSDOT** will negotiate with property owners for the acquisition of their property, including completion of all documents required by the **Sponsor** in order to obtain the property.

5.10 Relocation Assistance (Not Applicable)

The **NYSDOT** will administer relocation assistance to displaced persons and businesses and oversee their relocation and vacating the property.

5.11 Property Management (Not Applicable)

The **NYSDOT** will:

- Prepare an inventory of all improvements acquired.
- Prepare and deliver all required rental notices, rental permits and rental information.
- Collect rentals and payments for salvaged items.
- Maintain improvements in safe and secure manner.
- Oversee the removal of improvements by owners or third party purchasers.
- Demolish improvements when available prior to project construction.
- Dispose of excess right-of-way.

Section 6 - Detailed Design

6.01 Preliminary Bridge Plans

A. New and Replacement Bridges

The **Consultant** will prepare and submit to the **Sponsor** a Preliminary Bridge Plan in accordance with the *NYS DOT Bridge Manual*. The **Consultant** will prepare and submit to the **Sponsor** a Structure Justification Report. The format and content of the Structure Justification Report will be as outlined in the *NYS DOT Bridge Manual*.

B. Selected Structural Treatment

The **Consultant** will modify the Structure Justification Report, Preliminary Bridge Plan and/or Preliminary Bridge Rehabilitation Plan to incorporate **Sponsor** review comments.

The **Sponsor** will approve the selected structural treatment and will obtain NYS DOT concurrence (either by a written submission or at a meeting).

6.02 Advance Detail Plans (ADP)

The **Consultant** will develop the approved design alternative to the ADP stage. At this stage all plans, specifications, estimates and other associated materials will be near **100%** complete.

As part of this task the **Consultant** will prepare templated cross sections at 25 ft intervals.

Advance Detail Plans will be in accordance with Chapter 21 of the NYS DOT Highway Design Manual.

The **Consultant** will prepare and submit a copy of the ADP's to the **Sponsor** for review.

The **Consultant** will prepare and submit an electronic copy of the ADPs to the NYS DOT for review. The **Consultant** will modify the design to reflect the review of the ADP package.

6.03 Contract Documents

The **Consultant** will prepare a complete package of bid-ready contract documents. The package will include:

- Instructions to bidders.
- Bid documents.
- Contract language, including applicable federal provisions and prevailing wage rates.
- Special notes.
- Specifications.
- Plans.
- A list of supplemental information available to bidders (i.e., record as-built plans, etc.).

- Other pertinent information.

The **Consultant** will submit the contract documents to the **Sponsor** for approval. Upon approval, the **Sponsor** will submit 3 copies of the contract bid documents to NYSDOT as described in the *PLAFAP Manual*.

6.04 Cost Estimate

The **Consultant** will develop, provide, and maintain the construction cost estimate for the project. The **Consultant** will update the estimate periodically and as necessary to incorporate significant design changes, and will develop and provide the final Engineer's Estimate, including all quantity computations.

6.05 Utilities

The **Consultant** will coordinate with affected utility companies to ensure the timely relocation of utility poles and appurtenances. The **Consultant** will assist the **Sponsor** in preparing any necessary agreements with utility companies. Any agreements containing reimbursable relocations must be approved and signed by the Design Support Section of the NYSDOT Design Quality Assurance Bureau (see PLAFAP Manual Appendix 10-8).

6.07 Bridge Inventory and Load Rating Forms

The **Consultant** will complete and provide the **Sponsor** and the NYSDOT with:

- Inventory Update forms, per the current NYSDOT Bridge Inventory Manual for Bridge Inventory and Inspection System, reflecting all proposed physical changes resulting from construction.
- Level 2 Load Rating Data Input forms, per the NYSDOT User Manual for Structural Rating Program for Bridges and current NYSDOT guidance on the "Procedure for Inventorying, Inspecting, and Level 2 Load Rating, New, Replacement and Reconstructed or Rehabilitated Bridges."

6.08 Information Transmittal

Upon completion of the contract documents, the **Consultant** will transmit to the **Sponsor** all project information, including electronic files. The electronic information will be in the format requested by the **Sponsor**.

Section 7 - Advertisement, Bid Opening and Award

7.01 Advertisement

The **Consultant** will prepare the advertisement for bids to be placed in the NYS Contract Reporter and any other newspaper or publication identified by the **Sponsor**. The **Consultant** will submit the ad(s) to the **Sponsor** for review and will revise the ad(s) to reflect comments generated by that review. Upon approval by the **Sponsor**, the **Consultant** will place the advertisements.

Advertisements must not be placed until authorization is granted to the **Sponsor** by the NYSDOT.

7.02 Pre-Bid Meeting (Not Applicable)

The **Consultant** will hold a pre-bid meeting at the site prior to the bid opening. The time and date will be coordinated with the **Sponsor**.

7.03 Bid Opening (Letting)

The **Consultant** will assist the **Sponsor** in holding the public bid opening.

7.04 Award

The **Consultant** will analyze the bid results. The analysis will include:

- Verifying the low bidder.
- Ensuring receipt of all required bid documents (non-collusive bid certification, debarment history certification, etc.).
- Breaking the low bid into fiscal shares, if necessary.
- Determining whether the low bid is unbalanced.
- For pay items bid more than 25% over the Engineer's Estimate:
 - Checking accuracy of quantity calculations.
 - Determining appropriateness of price bid for work in the item.
 - Determining whether the low bidder is qualified to perform the work.

The **Consultant** will assist the **Sponsor** in preparing and compiling the package of information to be transmitted to the NYSDOT.

The **Sponsor** will award the contract and will transmit the award package to the NYSDOT as described in the Procedures for Locally Administered Federal Aid Projects (PLAFAP) Manual.

Section 8 - Construction Support (To Be Included Under Supplemental Agreement)

8.01 Construction Support

The **Consultant** will provide design response to unanticipated or changed field conditions, analyze and participate in proposed design changes, and interpret design plans.

The **Consultant** will attend one pre-construction meeting with the **Sponsor** and selected and approved Contractor.

Work under this section will always be in response to a specific assignment from the **Sponsor** under one of the tasks below:

- In response to unanticipated and/or varying field conditions or changes in construction procedures, the **Consultant** will conduct on-site field reconnaissance and, where required, prepare Field Change Sheets modifying pertinent contract plan sheets.
- The **Consultant** will analyze and make recommendations on the implementation of changes proposed by the **Sponsor** or the construction contractor. This includes the Traffic Control Plan.
- The **Consultant** will interpret and clarify design concepts, plans and specifications.
- The **Consultant** will review and approve structural shop drawings for construction.

Not reimbursable under this Section are:

- Corrections of design errors and omissions
- Straightforward interpretations of plans and designer intentions

Section 9 - Construction Inspection (To Be Included Under Supplemental Agreement)

9.01 Equipment

The **Contractor** will furnish office space and basic office furnishings for the **Consultant**, as part of the contract.

The **Consultant** will furnish all other office, field and field laboratory supplies and equipment required to properly perform the inspection services listed below.

9.02 Inspection

The **Consultant** must provide, to the satisfaction of the **Sponsor**, contract administration and construction inspection services from such time as directed to proceed until the completion of the final agreement and issuance of final payment for the contract. The **Consultant** must assume responsibility, as appropriate, for the administration of the contract including maintaining complete project records, processing payments, performing detailed inspection work and on-site field tests of all materials and items of work incorporated into the contract consistent with federal policies and the specifications and plans applicable to the project.

9.03 Municipal Project Manager

This Project Manager will be the **Municipality's** official representative on the contract and the **Consultant** must report to and be directly responsible to said Project Manager.

9.04 Ethics

Prior to the start of work, the **Consultant** will submit to the **Sponsor** a statement regarding conflicts of interest.

9.05 Health and Safety Requirements

The **Consultant** must provide all necessary health and safety related training, supervision, equipment and programs for their inspection staff assigned to the project.

9.06 Staff Qualifications and Training

The **Consultant** must provide sufficient trained personnel to adequately and competently perform the requirements of this agreement.

9.07 Scope of Services/Performance Requirements

A. Quality

The **Consultant** will enforce the specifications and identify in a timely manner to the **Sponsor** local conditions, methods of construction, errors on the plans or defects in the work or materials which would conflict with the quality of work, and conflict with the successful completion of the project.

B. Record Keeping & Payments to the Contractor

- 1) All records must be kept in accordance with the directions of the **Sponsor and must be consistent with the requirements of the NYS DOT Manual of Uniform Recordkeeping (MURK)**. The **Consultant** must take all measurements and collect all other pertinent information necessary to prepare daily inspection reports, monthly and final estimates, survey notes, record plans showing all changes from contract plans, photographs of various phases of construction, and other pertinent data, records and reports for proper completion of records of the contract.
- 2) Any record plans, engineering data, survey notes or other data provided by the Sponsor should be returned to the Sponsor at the completion of the contract. Original tracings of record plans, maps, engineering data, the final estimate and any other engineering data produced by the Consultant will bear the endorsement of the Consultant. Any documents that require an appropriate review and approval of a Professional Engineer (P.E.) licensed and registered to practice in New York State must be signed by the P.E.
- 3) Unless otherwise modified by this agreement, the **Sponsor** will check, and when **acceptable**, approve all structural **shop drawings**.
- 4) The **Consultant** must submit the final estimate of the contract to the **Sponsor** within four (4) weeks after the date of acceptance of the contract. All project records must be cataloged, indexed, packaged, and delivered to the **Sponsor** within five (5) weeks after the date of the acceptance of the contract.

• Health & Safety/Maintenance and Protection of Traffic

1. The **Consultant** must ensure that all inspection staff assigned to the project are knowledgeable concerning the health and safety requirements of the contract per **Sponsor** policy, procedures and specifications and adhere to all standards. Individual inspectors must be instructed relative to the safety concerns for construction operations they are assigned to inspect to protect their personal safety, and to ensure they are prepared to recognize and address any contractor oversight or disregard of project safety requirements.
2. The **Consultant** is responsible for monitoring the Contractor's and Subcontractor's efforts to maintain traffic and protect the public from damage to person and property within the limits of, and for the duration of the contract.

C. Monitoring Equal Opportunity/Labor Requirements

The **Consultant** must assign to one individual the responsibility of monitoring the Contractor's adherence to Equal Opportunity and Labor requirements contained in the contract. The Consultant, when monitoring the Contractor's Equal Opportunity and Labor compliance, will utilize the guidance contained in the contract, standard specifications and the **Sponsor's** policies.

Section 10 - Estimating & Technical Assumptions

10.01 Estimating Assumptions

The following assumptions have been made for estimating purposes:

- Section 1 Estimate 6 meetings during the life of this agreement.
Estimate 24 cost and progress reporting periods will occur during the life of this agreement.
- Section 2 Assume that GPS methods and equipment will be used to establish local control points.
Estimate 10 accidents will require analysis.
Estimate 1 capacity analyses will be required.
Estimate 4 soil borings will be taken.
Estimate 2 substructure cores will be taken.
Assume 10-12 stream sections will be required
- Section 3 Estimate 2 concepts will be evaluated for the site.
Estimate 2 design alternative(s) will be analyzed in addition to the null alternative for the site.
Estimate 2 cost estimate(s) plus 1 update will be required.
Estimate 1 bridge will be replaced and 0 will be rehabilitated
- Section 4 Estimate 3 permits will be required.
- Section 5 Estimate 6 ROW Maps will be required
- Section 6 Estimate 2 cost estimate(s) plus 1 update will be required.
Estimate 1 bridge will be replaced and 0 will be rehabilitated.
Estimate 6 utility companies and 1 railroad agencies will be affected.
- Section 7 Estimate 30 copies of the final contract bid documents will be needed.
Estimate advertisements will be placed in 2 publications in addition to the NYS Contract Reporter.

10.02 Technical Assumptions

- A. Major Items of Work:
Replacement/Rehabilitation of Clinton Street Bridge over Sauquoit Creek
- B. The project will be progressed using English units.
- C. Assume bridge rehabilitation concept will be evaluated along with a replacement alternative.
- D. Contract plans and cross-sections will be prepared at ½ size (11"x17"), per NYSDOT requirements.
- E. Assume stream sections and a hydraulic analysis will be required.
- F. Traffic counts will be supplied by County to Consultant. Turning movement traffic counts will be required for 1 intersection.
- G. Assume wetland delineation will not be required.
- H. Assume a 4(f)/106 evaluation and Historic American Engineer Record (HAER) will NOT be required for this project.
- I. Assume that the SHPO will give no impact determination for this site.
- J. Assume 1 Public Information Meeting and no public hearing will be required.
- K. Assume 6 ROW takings will be required.
- L. Survey and mapping will include a 100 foot bandwidth extending 100 feet onto bridge approaches of Clinton Street. The survey shall extend 300 feet south on Clinton Street through the parking lot of Pizza Boys and 300 +/- across the Sanquoit Creek which will include a 70' bandwidth to accommodate a temporary pedestrian bridge that will tie into the existing Rail Trail. Survey will extend approximately 100' through the 3-way intersection of with Main Street and Burrstone Road to allow for profile adjustments as needed. Survey will include location and elevation of all overhead utility lines within the survey limits.
- M. Assume construction support and construction inspection phase services will be added as a supplemental agreement.



Survey and Mapping
PIN 2754.41 Clinton Street over
Sauquoit Creek
Oneida Co.

February 8, 2018

Understanding of Tasks

Clinton St over Sauquoit Ck

Establish Hor. and Vert. survey control, collect all topographic feature, structure data and stream cross sections, complete computations and prepare CAD base mapping, cross section data, control ties and surface file deliverables, Q/C all per scope provided to advance design alternative – limits per Fig 1

Determine ROW and side property lines, prepare six (6) ROW maps using the NYS DOT format – appropriation information will be incorporated into design files

Fee See attached cost shell

Technical Assumptions

Design Survey and Mapping

- Access will not be impeded – B&L will contact all adjoining owners prior to survey and inform them of the need to complete the survey and hydraulic cross sections in Sauquoit creek
- NYS DOL 'prevailing wage' rates do apply
- Horizontal and Vertical survey control points and tie sheets will be provided in the mapping.
- One (1) day of supplemental survey and mapping is included.
- 9 hydro sections are anticipated
- Any utility mark outs done for the cores / borings will be made available for mapping.
- Prudent will initiate a 'design tickets' with Dig Safe NY & investigate visible underground utilities on site.
- The site will be free of snow for most the field survey.
- Trees will be located, and common names provided
- The limits of the mapping are as shown on Fig 1
- Six (6) ROW mapping are anticipated
- Title searches and appraisals will be provided by others
- No construction layout or as-built survey is included

Sincerely,
PRUDENT ENGINEERING, LLP

Michael A. Venturo, LS
Principal

ATTACHMENT B
Staffing Assumptions

STAFFING ASSUMPTIONS
 Barton & Loguidice, D.P.C.
 Clinton Street Bridge over Sauquoit Creek
 PIN 2754.41

SECTION	TASK	DESCRIPTION	Principal	Sr. Managing Engineer	Managing Engineer	Construction Manager	Sr. Project Engineer	Project Engineer	Managing Environmental Scientist	Project Manager	Engineer III	Engineer II	Engineer I	Environmental Scientist III	Principal Engineering Technician	Engineering Technician	Engineering Aide	Senior Group Technical Assistant	TOTAL	ASSUMPTIONS
1	GENERAL																			
	1.05	Project Familiarization.			10				8		8								26	Review existing County-provided information. Site visit.
	1.06	Meetings	6		36				6		12							4	58	Progress Report Summary Sheet per Manual & monthly invoicing
	1.07	Cost & Progress Reporting:	24	6	12														18	
	TOTALS for Section 1		6		58				14		20							4	102	
2	DATA COLLECTION & ANALYSIS																			
	2.01A	Design Survey			1				4										5	By Prudent, B&L to coordinate
	2.01B	Stream Sections		1	2						4								7	By Prudent, B&L to coordinate
	2.01C	Survey of Wetlands Boundaries																	0	By Prudent, B&L to coordinate
	2.01D	Supplemental Survey			1				1										2	
	2.02	Design Mapping							6						8				14	B&L to review for completeness and conformance with standards
	2.03	Determination of Existing Conditions							4		4								8	Site visit under Task 1.05; document conditions for DAD
	2.04	Accident Data and Analysis							2		4								6	
	2.05	Traffic Counts									2								2	Determine existing traffic speeds & volumes; forecast growth. Flow diagram will not be needed.
	2.06	Capacity Analysis									4								4	
	2.07	Future Plans and Coordination with other Projects																	0	By County. Assumed future plans will have no impact on the scope of the project.
	2.08	Soil Investigation									8							1	9	B&L to secure subcontractor services
	2.09	Hydraulic Analysis.		4	4						40								48	Hydrology and hydraulics of existing & proposed structures
	2.10A	Bridge In-Depth Inspection			8						8								16	Assume superstructure replacement @ a minimum
	2.10B	Bridge Deck Evaluation																	0	Not Applicable
	2.10C	Load Rating of Existing Bridge																	0	Assume superstructure replacement @ a minimum
	2.10D	Fatigue Evaluation																	0	Not Applicable
	TOTALS for Section 2		5	16					17		74			8				1	121	
3	PRELIMINARY DESIGN																			
	3.01	Design Criteria.			1				1		3								5	and appropriate design criteria for highway classification.
	3.02A	Selection of Design Alternatives	1		8				12		24								45	Evaluate two alternatives (replacement/rehabilitation)
	3.02B	Detailed Evaluation of Alternative																	0	Evaluate design criteria, drainage & utilities
		Plans: 2			2				16		16			12					46	
		Profiles: 1			2				12		8			12					34	
		Typical Sections: 1			2				16		16			16					50	
		Totals Preliminary Plans: 4			6				44		40			40					130	
	3.03	Cost Estimates																	0	
		Initial Estimate:			2				4		12								18	
		Updates (Each): 1							2		4								6	
		Totals Estimating:			2				6		16			16					24	
	3.04	Develop the Draft DAD	2		8						60			16		2	4		92	2 Copies
	3.05	Advisory Agency Review			2						8									
	3.06A	Public Information Meeting			8				2		16			16			1		43	Open House Informational Meeting. Prepare display boards for plans, profile &
	3.07	Prepare Design Recommendation. Modify DAD	1		2						8					2	4		17	Resolution and response to comments. 2 copies
	TOTALS for Section 3		4	37					65		175			72		4	9	366		

STAFFING ASSUMPTIONS
 Barton & Loguidice, D.P.C.
 Clinton Street Bridge over Sauquoit Creek
 PIN 2754.41

SECTION	TASK	DESCRIPTION	Principal	Sr. Managing Engineer	Managing Engineer	Construction Manager	Sr. Project Engineer	Project Engineer	Managing Environmental Scientist	Project Manager	Engineer III	Engineer II	Engineer I	Environmental Scientist III	Principal Engineering Technician	Engineering Technicians	Engineering Aide	Senior Group Technical Assistant	TOTAL	ASSUMPTIONS			
4		ENVIRONMENTAL																					
	4.01	NEPA Classification			1				6			2		2						11	Complete NEPA Checklist.		
	4.02	SEQRA Classification			1				6			2		2						11	Type II Verification & Documentation		
	4.03	Smart Growth			1																		
	4.04	Screenings:																					
		General Ecology and Endangered Species							2					4						6	Endangered Species Inquiry		
		Surface Water			1				1					1						3	Identification of Drainage Basins; Erosion and sediment control requirements. SPDES check. File Notice of Intent		
		Ground Water							4					1						5	Ground Water Investigation: desk-top survey; provide write-up		
		State Wetlands							2					1						3	Review of State-Regulated Wetlands Maps:		
		Federal Jurisdictional Wetlands																		0	Wetlands		
		Floodplains																		0	acquire FEMA maps and studies; determine need for full evaluation		
		Coastal Zone Management: Navigable Waterways			1				1					1						3			
		Historic/Archaeological Resources			2				2					4						8	SHPO Inquiry letter		
		Parks																		0	Determine need for 4(f) or 6(f)		
		Hazardous Waste			1									4						2	7	desk-top survey, site visit, prepare form for DAD	
		Asbestos			1									4						2	7	desk-top survey (record drawings), site visit, prepare form for DAD	
		Noise							1					2							3		
		Air Quality							1					2							3		
		Energy							1					2							3		
		Farmland and/or Agricultural Districts							1					2							3		
		Invasive Species																			0		
		Visual Impacts																			0		
		Critical Environmental Areas																			0		
		Complete Streets																			0		
		Environmental Justice																			0		
		Natural Landmarks																			0		
		Coast Guard Bridge Permit																			0		
	4.05	Detailed Studies and Analyses:																					
	4.05A	General Ecology and Endangered Species							4					8							12		
	4.05B	Ground Water																			0		
	4.05C	Surface Water							4					8							12		
	4.05D	State Wetlands																			0		
	4.05E	Federal Wetlands																			0		
	4.05F	Floodplains																			0		
	4.05G	Coastal Zone Management																			0	Not applicable	
	4.05H	Historic Resources																			0		
	4.05I	Parks - Section 4(f) and Section 6(f)																			0		
	4.05J	Hazardous Waste			1									12							13		
	4.05K	Asbestos			1									12							13		
	4.05L	Noise																			0		
	4.05M	Air Quality																			0		
	4.05N	Energy																			0		
	4.05O	Farmlands:																			0		
	4.05P	Invasive Species																			0		
	4.05Q	Visual Impacts:																			0		
	4.05R	Critical Environmental Areas																			0		
	4.05S	Complete Streets																			0		
	4.05T	Environmental Justice																			0		
	4.05U	Natural Landmarks																			0		
	4.05V	Coast Guard Bridge Permit																			0		
	4.06	Permits and Approvals			4								24							1	29	Complete Joint Application for Permit.	
	4.07	Public Hearing			8								16		16						5	156	Not applicable
		TOTALS for Section 4			15				36				28		72					5	156		

STAFFING ASSUMPTIONS

Barton & Loguidice, D.P.C.

Clinton Street Bridge over Sauquoit Creek

PIN 2754.41

SECTION	TASK	DESCRIPTION	Principal	Sr. Managing Engineer	Managing Engineer	Construction Manager	Sr. Project Engineer	Project Engineer	Managing Environmental Scientist	Project Manager	Engineer III	Engineer II	Engineer I	Environmental Scientist III	Principal Engineering Technician	Engineering Technician	Engineering Aide	Senior Group Technical Assistant	TOTAL	ASSUMPTIONS
5 RIGHT OF WAY																				
5.01		Abstract Request Map and/or Title Search			2					4										6
5.02		ROW Survey			1					2										3
5.03		ROW Mapping			1					2										3
5.04		ROW Plan			2					8										10
5.05		ROW Cost Estimate			1					2										3
5.06		Public Hearings/Meetings																		0
5.07		Property Appraisals																		0
5.08		Appraisal Review																		0
5.09		Negotiations and Acquisition of Property																		
5.10		Relocation Assistance																		
5.11		Property Management			1					2										
TOTALS for Section 5					8					20										28
6 DETAILED DESIGN																				
6.01		Preliminary Bridge Plan	1	1	4							24			12					41
		Structure Justification Report	2		4							24			8					38
		Resolution & Response to Comments			2							8								10
6.02		Advance Detail Plans (ADP)																		0
		Title:	1		1										2					3
		Typical Sections:	1		1					8					24					33
		M&PT:	2		2					24					32					58
		Construction Sign Text Data	1		2					8					12					22
		Temporary Traffic Signal Plans & Details:																		0
		Maintenance Jurisdiction Table	1		1					4					6					11
		Miscellaneous Tables & Details	1							8					12					20
		Plans:	1	2	2					24					32					60
		Profiles:	1		1					8					12					21
		Landscaping & Grading	1		1					8					12					21
		Sign Text Data:																		0
		Intersection Plan:	1		2					16		24			16					58
		Erosion & Sediment Control Plan	1	1	2				8				8		12					31
		Bridge Plan	1	1	2							12			12					27
		General Notes	1		1					2			4		4					11
		Temporary Detour Structure Plan	1	1	8							24			16					49
		Existing Structure Removal Details	1		1							4			8					13
		Excavation & Backfill	1	2	4							32			24					62
		Abutment Plan, Elevation & Reinforcement	1	1	4							16			16					37
		Pier Plan, Elevation & Reinforcement																		0
		Abutment Plan, Elevation & Reinforcement	1	1	4							16			16					37
		Miscellaneous Substructure	2	2	4							24			24					54
		Superstructure Plan & Sections	1		8							24			16					48
		Framing Plan & Beam Details	1	1	4							8			12					25
		Deck Reinforcement Plan & Details	1	1	4							16			12					33
		Truss, Camber & Windbrake Tables	1		2							10			8					20
		Miscellaneous Superstructure Details	1		4							8			8					20
		Approach Slab Details	1	1	4							12			12					29
		Bearing Replacement Details	1		2							16			8					26
		Joint System Plan & Sections																		0
		Railing Layout	1		1					4		4			8					17
		Railing Details	3		1							4			8					13
		Structural Slab (Optional Forming System)																		0
		Bar Bending Diagrams & Lists	1		8							24			8					40
		Templated Cross Sections:								2					8					10
25 ft intervals = 24 cross sections @ 3 per sheet @ 1"=10' scale = 8																				
6.03		Contract Documents			4							8					2	2		16
2 Copies to the County for Review																				
6.04		Cost Estimate																		
		Initial Estimate:			8					8		40								56
		Updates (Each):	1		4							4								8
6.05		Utilities			8							16								24
6.06		Railroads			8							16								
6.07		Bridge Inventory & Load Rating Forms										4								4
6.08		Information Transfer													4					4
Submit original Contract Documents and Drawings to the County.																				
TOTALS for Section 6			17		123				8	124		434		424			2	2	###	###

STAFFING ASSUMPTIONS
 Barton & Loguidice, D.P.C.
 Clinton Street Bridge over Sauquoit Creek
 PIN 2754.41

SECTION	TASK	DESCRIPTION	Principal	Sr. Managing Engineer	Managing Engineer	Construction Manager	Sr. Project Engineer	Project Engineer	Managing Environmental Scientist	Project Manager	Engineer III	Engineer II	Engineer I	Environmental Scientist III	Principal Engineering Technician	Engineering Technician	Engineering Aide	Senior Group Technical Assistant	TOTAL	ASSUMPTIONS	
7		ADVERTISEMENT, BID OPENING and AWARD																			
	7.01	Advertisement		1	4														2	7	
	7.02	Bid Opening/Award Recommendation (Letting)		1	4							8								13	Attend opening and prepare bid tabulation.
	7.03	Award		1	8							12							2	23	Bid review & analysis.
		TOTALS for Section 7		3	16							20							4	43	
8		CONSTRUCTION SUPPORT																			
	8.01	Construction Support																		0	On-site field reconnaissance. Prepare field change sheets. (Assume 1 site visits req'd.)
		Pre-Construction Meeting																		0	
		Evaluation of proposed changes.																		0	
		Review shop drawings and submittals																		0	
		Level 1 Load Rating																		0	
		TOTALS for Section 8																		0	
9		CONSTRUCTION INSPECTION																			
	9.01	Equipment																		0	
	9.02	Inspection, Number of weeks :																		0	
		TOTALS for Section 9																		0	

Prudent Engineering
 PIN 2754.41
 Clinton Street over Sauquoit Creek
 New Hartford, Oneida Co.

TASKS	PR	PM	SP	DE	LS	PC	IP	CO II	CO I	TOT	REMARKS
Section 2 - DATA COLLECTION	0	0	0	0	13	60	60	48	8	189	SUBTOTAL
2.01A - Design Survey Site Control & BMs					1	30	30			61	Control and topo per scope 3 BMs
2.01F - Supplemental survey and mapping						9	9	4		22	Assume 1 day plus mobilization, data processing and CAD updates.
Stream Survey						18	18			36	9 hydro X-sec and data / file prep
Design Mapping					12			44	8	64	Label baseline, with tie diagrams. Scale drawing at 1" = 20' MicroStation V8i. Use NYSDOT settings. Depict utilities from plans and location data. Control Report per scope
Mobilization						3.0	3.0			6	one half actual time due to prevail. wage (1.5 hr total mob/demob time)
Section 5 - RIGHT-OF-WAY	0	0	0	0	60	0	0	76	32	168	SUBTOTAL
5.02 - Right-of-Way Survey					36	0	0	22	10	68	Conduct field survey for ROW and property monumentation (completed under 2.01) - determine ROW and side lines
5.03 - Right-of-Way Mapping					24			54	22	100	Prepare 6 right of way acquisition maps. Compute parcels, draft maps, write legal descriptions in DOT format, QC maps, submit draft - address comments, plot on mylar, get signature from County, submit final mylar plots Assume 8 parcels.

Prudent Engineering
Exhibit B, PAGE 4
Estimate of Direct Non-Salary Cost

PIN 2754.41
Clinton Street over Sauquoit Creek
New Hartford, Oneida Co.

1. Travel	Site Visits:				
	5 trip to site @	100 miles each @	\$0.540 per mile	=	\$270.00
2. Records					\$85.00
3. Survey Personnel Costs					
Wage Differential		Hours	@	Rate	
Party Chief	III (N)	60		17.37	1,042.16
Instrument Person	II (N)	60		18.68	<u>1,120.58</u>
	SUBTOTAL Wage Differential				\$2,162.73
Supplemental Benefits					
Party Chief	III (N)	60		24.69	1,481.31
Instrument Person	II (N)	60		24.69	<u>1,481.31</u>
	SUBTOTAL Supplemental Benefits				\$2,962.62
				Total	= <u>\$5,480.35</u>

PRUDENT ENGINEERING LLP
Exhibit B, PAGE 5
Summary
PIN 2754.41
Clinton Street over Sauquoit Creek

Item IA, Direct Technical Salaries (estimated) subject to audit	\$ 9,846.75
Item IB, Direct Technical Salaries, Premium Portion of Overtime (estimated) subject to audit	
Item II, Direct Non-Salary Cost (estimated) subject to audit	\$5,480.35
Item II Direct Non-Salary Cost (estimated) subject to audit (Sub-Contractor Cost)	
Item III, Overhead @ 121% (estimated) subject to audit	\$ 11,914.57
Item IV, Fixed Fee (@ 11%) (non-negotiable)	\$ 2,695.16
Item II Direct Non-(Sub-Consultant Cost)	<hr/>
Total Estimated Cost	\$ 29,936.83

Exhibit C
Summary

BARTON & LOGUIDICE, D.P.C.
PIN 2754.41

	<u>TOTAL</u>
Item IA, Direct Technical Salaries (estimated) subject to audit	\$71,683
Item IB, Direct Technical Salaries Premium Portion of overtime subject to audit (estimate)	\$0
Item II, Direct Non-Salary Cost (estimated) subject to audit	\$1,874
Item II Direct Non-Salary Cost (estimated) subject to audit (Sub-Contractor Cost)	\$18,000
Item III, Overhead (estimated) subject to audit) (@ 175% Office Rate)	\$125,444
Item IV, Fixed Fee (negotiated)	\$19,700
Item II Direct Non-Salary Cost (estimated) subject to audit (Sub-Consultant Cost)	\$30,000
TOTAL ESTIMATED CONSULTANT COST	\$266,700
MAXIMUM AMOUNT PAYABLE	\$270,000

Attachment D

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

- a. The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

- a. Pursuant to Oneida County Board of Legislators Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation

of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
- i. The Contractor will or will continue to provide a drug-free workplace By:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
 - C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
 - D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
 - 1) Abide by the terms of the statement; and

- 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:
 - 1) Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
 - F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;
 - 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - 2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;
 - G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.
- ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.
 - A. Place of Performance (street, address, city, county, state, zip code).
- d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
 - i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

iii. Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA). When applicable to the services provided pursuant to the Contract:

a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:

i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;

ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and

iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.

b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
 - ii. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
 - ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
 - iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
 - iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
 - v. Make available protected health information in accordance with 45 CFR §164.524;
 - vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
 - vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
 - viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
 - i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

- a. In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

- a. In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

- a. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the

manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

- a. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

- a. In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

- a. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely

inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

- a. In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

- a. This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

- a. The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.
- b. In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

- a. The Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa).

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval,

- recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.
- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT.

- a. The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.
- b. If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single

Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

- a. Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).
- b. Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.
- c. During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.
- d. The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY.

- a. Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:
 - i. For the purposes of this provision, the “use of tobacco” shall include:
 - A. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - B. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
 - ii. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
 - iii. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - A. Upon all real property owned or leased by the County of Oneida; and
 - B. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
 - iv. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ATTACHMENT C

**Staffing Rates, Hours,
Reimbursables and Fees**

BARTON & LOGUIDICE, D.P.C.
PIN 2754.41
Clinton Street Bridge over Sauquoit Creek

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Exhibit	Description
A-1	SALARY SCHEDULE
A-2	STAFFING TABLE
B-1	DIR. NON-SAL. COST
C	SUMMARY

Exhibit A, Page 1
Salary Schedule

BARTON & LOGUIDICE, D.P.C.
PIN 2754.41

JOB TITLE	ASCE (A) OR NICET (N)		AVERAGE HOURLY RATES		MAXIMUM HOURLY RATES	
	GRADE		2018		2019	
Principal	X	(A)	\$ 99.00	\$ 99.00	\$ 99.00	\$ 99.00
Senior Vice President	IX	(A)	\$ 86.10	\$ 86.10	\$ 90.00	\$ 90.00
Vice President	IX	(A)	\$ 73.00	\$ 73.00	\$ 78.85	\$ 78.85
Associate	VIII	(A)	\$ 61.81	\$ 61.81	\$ 65.35	\$ 65.35
Associate Vice President	VIII	(A)	\$ 49.50	\$ 49.50	\$ 49.50	\$ 49.50
Senior Environmental Consultant	VII	(A)	\$ 57.50	\$ 57.50	\$ 57.50	\$ 57.50
Senior Managing Engineer	VII	(A)	\$ 56.04	\$ 56.04	\$ 61.60	\$ 61.60
Senior Managing Environmental Scientist	VII	(A)	\$ 62.00	\$ 62.00	\$ 62.00	\$ 62.00
Senior Managing Hydrogeologist	VII	(A)	\$ 58.75	\$ 58.75	\$ 58.75	\$ 58.75
Senior Project Manager	VII	(A)	\$ 59.37	\$ 59.37	\$ 62.00	\$ 62.00
Senior Managing Landscape Architect	VII	(A)	\$ 51.50	\$ 51.50	\$ 51.50	\$ 51.50
Senior Project Landscape Architect	V	(A)	\$ 37.00	\$ 37.00	\$ 37.00	\$ 37.00
Project Manager	VI	(A)	\$ 48.00	\$ 48.00	\$ 56.00	\$ 56.00
Managing Engineer	VI	(A)	\$ 47.77	\$ 47.77	\$ 53.00	\$ 53.00
Managing Landscape Architect	VI	(A)	\$ 43.35	\$ 43.35	\$ 46.00	\$ 46.00
Managing Hydrogeologist	VI	(A)	\$ 45.35	\$ 45.35	\$ 45.35	\$ 45.35
Construction Manager	VI	(A)	\$ 43.50	\$ 43.50	\$ 43.50	\$ 43.50
Senior Water Quality Scientist	V	(A)	\$ 44.08	\$ 44.08	\$ 51.00	\$ 51.00
Senior Land Use Planner	V	(A)	\$ 48.00	\$ 48.00	\$ 50.00	\$ 50.00
Senior Project Engineer	V	(A)	\$ 40.68	\$ 40.68	\$ 51.00	\$ 51.00
Senior Project Hydrogeologist	V	(A)	\$ 50.00	\$ 50.00	\$ 56.00	\$ 56.00
Managing Environmental Scientist	V	(A)	\$ 44.25	\$ 44.25	\$ 44.25	\$ 44.25
Managing Industrial Hygienist	V	(A)	\$ 43.50	\$ 43.50	\$ 43.50	\$ 43.50
Senior Engineer	V	(A)	\$ 37.00	\$ 37.00	\$ 39.05	\$ 39.05
Senior Project Environmental Scientist	V	(A)	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00
Project Engineer	IV	(A)	\$ 34.98	\$ 34.98	\$ 36.75	\$ 36.75
Project Environmental Scientist	IV	(A)	\$ 34.10	\$ 34.10	\$ 38.50	\$ 38.50
Engineer III	III	(A)	\$ 31.35	\$ 31.35	\$ 32.20	\$ 32.20
Project Landscape Architect	III	(A)	\$ 28.80	\$ 28.80	\$ 28.80	\$ 28.80
Environmental Scientist III	III	(A)	\$ 26.50	\$ 26.50	\$ 26.50	\$ 26.50
Land Use Planner III	III	(A)	\$ 28.20	\$ 28.20	\$ 28.20	\$ 28.20
Industrial Hygienist III	III	(A)	\$ 28.25	\$ 28.25	\$ 28.25	\$ 28.25
Assistant Landscape Architect II	II	(A)	\$ 24.75	\$ 24.75	\$ 24.75	\$ 24.75
Engineering Designer I	II	(A)	\$ 37.85	\$ 37.85	\$ 38.50	\$ 38.50
Intern Architect II	II	(A)	\$ 26.80	\$ 26.80	\$ 26.80	\$ 26.80
Engineer II	II	(A)	\$ 29.51	\$ 29.51	\$ 30.00	\$ 30.00
Hydrogeologist II	II	(A)	\$ 21.40	\$ 21.40	\$ 21.40	\$ 21.40
Engineer I	I	(A)	\$ 27.87	\$ 27.87	\$ 30.50	\$ 30.50
Environmental Scientist II	I	(A)	\$ 21.02	\$ 21.02	\$ 22.00	\$ 22.00
Resident Engineer	IV	(N)	\$ 39.77	\$ 39.77	\$ 56.10	\$ 56.10
Principal Engineering Technician	IV	(N)	\$ 35.18	\$ 35.18	\$ 36.60	\$ 36.60
Engineering Technician	IV	(N)	\$ 31.79	\$ 31.79	\$ 36.50	\$ 36.50
Senior Designer	IV	(N)	\$ 26.75	\$ 26.75	\$ 26.75	\$ 26.75
Senior Inspector	III	(N)	\$ 34.90	\$ 34.90	\$ 41.85	\$ 41.85
Designer	II	(N)	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00
CAD Technician	II	(N)	\$ 22.13	\$ 22.13	\$ 22.65	\$ 22.65
Assistant Landscape Architect I	II	(N)	\$ 21.40	\$ 21.40	\$ 21.40	\$ 21.40
Industrial Hygiene Technician	I	(N)	\$ 18.10	\$ 18.10	\$ 18.10	\$ 18.10
Field Technician	I	(N)	\$ 17.85	\$ 17.85	\$ 18.35	\$ 18.35
Engineering Aide	I	(N)	\$ 29.65	\$ 29.65	\$ 30.00	\$ 30.00
Project Administrator	N/A		\$ 27.00	\$ 27.00	\$ 28.00	\$ 28.00
Senior Group Technical Assistant	N/A		\$ 20.84	\$ 20.84	\$ 23.40	\$ 23.40
Office Assistant	N/A		\$ 17.02	\$ 17.02	\$ 18.70	\$ 18.70
Intern	N/A		\$ 13.00	\$ 13.00	\$ 14.00	\$ 14.00

NOTES:

OVERTIME POLICY

- Category A - No overtime compensation
- Category B - Overtime compensated at straight time rate
- Category C - Overtime compensated at straight time rate x 1.50

Overtime applies to hours worked in excess of the normal working hours of 40 hours per week

**PRUDENT ENGINEERING LLP
EXHIBIT B, PAGE 2
SALARY SCHEDULE**

**PIN 2754.41
Clinton Street over Sauquoit Creek**

JOB TITLE	ASCE (A) OR NICET (N) GRADE	AVERAGE RATE			MAXIMUM			OT CATE- GORY
		2018	2019	2020	2018	2019	2020	
PRINCIPAL	IX (A)	\$73.50	\$ 73.50	\$ 73.50	\$ 73.50	\$ 75.00	\$ 75.00	A
PROJECT MANAGER	IV (A)	\$50.08	\$ 51.58	\$ 53.13	\$ 51.00	\$ 52.53	\$ 54.11	B
PROJECT ENGINEER	IV (A)	\$66.95	\$ 68.96	\$ 71.03	\$ 67.00	\$ 69.01	\$ 71.08	B
ENGINEER	III (A)	\$37.85	\$ 38.99	\$ 40.16	\$ 38.00	\$ 39.14	\$ 40.31	B
LAND SURVEYOR	III (N)	\$39.71	\$ 40.90	\$ 42.12	\$ 41.00	\$ 42.23	\$ 43.50	C
PARTY CHIEF	III (N)	\$25.57	\$ 26.34	\$ 27.13	\$ 26.50	\$ 27.30	\$ 28.11	C
INSTRUMENT PERSON	II (N)	\$21.12	\$ 21.75	\$ 22.40	\$ 22.00	\$ 22.66	\$ 23.34	C
CADD Operator	II (N)	\$27.30	\$ 28.11	\$ 28.96	\$ 26.50	\$ 27.30	\$ 28.11	C
CADD Operator	I (N)	\$19.06	\$ 19.63	\$ 20.22	\$ 20.00	\$ 20.60	\$ 21.22	C

NOTE:

It shall be the ENGINEER'S responsibility to pay prevailing wage rates and supplements as required by the Labor Department, for services requiring such rates and supplements.

OVERTIME POLICY

Category A - No overtime compensation.
 Category B - overtime compensated at straight time rate.
 Category C - overtime compensated at straight time rate x 1.50
 Overtime applies to hours worked in excess of the normal working hours of 40 hours per week

*Prevailing Wage Rates - The difference between the required prevailing wage rate and the normal hourly rate is considered a direct cost:

		Prevailing Rate	Projected Rate	Normal Rate	Difference	Payroll Additive	Total
Party Chief	III (N)	\$40.01	\$41.51	\$25.57	\$15.94	\$1.43	\$17.37
Instrument Person	II (N)	\$36.74	\$38.24	\$21.12	\$17.13	\$1.54	\$18.68

Supplemental Benefits are also considered direct costs. The net benefit is the difference between required amounts and deductions made through existing plans (overhead):

		Prevailing Benefit	Projected Benefit	Benefit Adjustment	Net Difference	Payroll Additive	Total
Party Chief	III (N)	\$24.20	\$24.95	\$2.30	\$22.65	\$2.04	\$24.69
Instrument Person	II (N)	\$24.20	\$24.95	\$2.30	\$22.65	\$2.04	\$24.69

Exhibit A, Page 2
Staffing Table

BARTON & LOGUIDICE, D.P.C.
PIN 2754.41

JOB TITLE	ASCE (A) OR NICET (N) GRADE	SECTIONS								TOTAL HOURS	PROJECTED HOURLY RATE	DIRECT TECHNICAL LABOR	
		1	2	3	4	5	6	7	8				
Principal	X	6			4			17			27	\$99.00	\$2,673.00
Senior Managing Engineer	VII		5								8	\$56.04	448.32
Managing Engineer	VI	58	16	37	15	8	123	16			273	\$47.77	13,041.21
Construction Manager	VI										0	\$43.50	0.00
Senior Project Engineer	V										0	\$40.68	0.00
Project Engineer	IV										0	\$34.98	0.00
Project Environmental Scientist	IV				36			8			44	\$34.10	1,500.40
Project Manager	VI	14	17	65		20	124				240	\$48.00	11,520.00
Engineer III	III										0	\$31.35	0.00
Engineer II	II	20	74	175	28		434	20			751	\$29.51	22,162.01
Engineer I	I										0	\$27.87	0.00
Environmental Scientist III	III				72						72	\$26.50	1,908.00
Principal Engineering Technician	IV		8	72			424				504	\$35.18	17,730.72
Engineering Technician	IV										0	\$31.79	0.00
Engineering Aide	I							2			6	\$29.65	177.90
Senior Group Technical Assistant	N/A	4	1	9	5	2	2	4			25	\$20.84	521.00
TOTAL		102	121	366	156	28	1134	43	0	1950			\$71,682.56

Prudent Engineering

Exhibit B, PAGE 3

Staffing Table

PIN 2754.41

Clinton Street over Sauquoit Creek
New Hartford, Oneida Co.

JOB TITLE	ASCE (A) OR NICET (N) GRADE	Section 1	Section 2	Section 5	TOTAL HOURS	AVER. HOURLY RATE	DIRECT TECHNICAL LABOR
PRINCIPAL	IX (A)	0	0	0	0	\$ 73.50	0.00
PROJECT MANAGER	IV (A)	0	0	0	0	\$ 50.08	0.00
PROJECT ENGINEER	IV (A)	0	0	0	0	\$ 66.95	0.00
ENGINEER	III (A)	0	0	0	0	\$ 37.85	0.00
LAND SURVEYOR	III (N)	0	13	60	73	\$ 39.71	2,898.57
PARTY CHIEF	III (N)	0	60	0	60	\$ 25.57	1,534.49
INSTRUMENT PERSON	II (N)	0	60	0	60	\$ 21.12	1,266.90
CAD Operator	II (N)	0	48	76	124	\$ 27.30	3,384.58
CAD Operator	I (N)	0	8	32	40	\$ 19.06	762.20
					357		\$ 9,846.75

Exhibit B, Page 1
 Estimate of Direct Non-Salary Cost

BARTON & LOGUIDICE, D.P.C.
 PIN 2754.41

1. Travel, Lodging and Subsistence

Trips to Site/County	trips	miles per					
Miscellaneous	4	100	miles/trip	400			
				<u>500</u>			
		Total Mileage		900	@	\$0.55	\$490.50

TOTAL TRAVEL, LODGING, & SUBSISTENCE \$491

2. Reproduction, Drawings & Report

Design Report		Sheets	Set	
Pre-Draft thru Final	0.10	200	10	\$200.00
Brochure/Handout	0.10	2	30	6.00
Miscellaneous	0.05	2000	1	100.00
Plans/Cross-Sections	0.10	35	5	17.50
Prints	0.20	35	30	<u>210.00</u>

TOTAL DRAWING, REPORT, REPRODUCTION \$534

3. Environmental Screenings/Reports \$500

4. Mail, Postage & Shipping \$150

5. Bid Advertisement \$200

6. Subcontractor for Borings (Estimated) \$18,000

7. Subcontractor for Survey (Estimated) \$30,000

8. Subcontractor for ROW (Assume 6 Maps) \$0

Direct Non-Salary Cost	\$1,874
Direct Non-Salary Cost (Subconsultants/Subcontractors)	\$30,000

TOTAL DIRECT NON - SALARY COST \$31,874



**ONEIDA COUNTY DEPARTMENT OF
WATER QUALITY & WATER POLLUTION CONTROL**

51 Leland Ave, PO Box 442, Utica, NY 13503-0442
(315) 798-5656 wpc@ocgov.net FAX 724-9812

Anthony J. Picente, Jr.
County Executive

Steven P. Devan, P.E.
Commissioner

July 9, 2018

The Honorable Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, NY 13501

FN 20 **18-244**
PUBLIC WORKS

WAYS & MEANS

Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
Anthony J. Picente, Jr.
County Executive

Date 7-9-18

Re: Solid Waste Collection and Disposal Agreement
Oneida-Herkimer Solid Waste Authority

Dear County Executive Picente:

The Department of Water Quality and Water Pollution Control has been under contract with the Oneida – Herkimer Solid Waste Authority (Authority) for solid waste disposal since 1996. The contract was renewed again on January 1, 2007 and expired on December 31, 2017. The original contract basically said that the Department would take all of its waste, including wastewater treatment byproducts, to Authority facilities.

The initial contract in 1996 was important as the legality of flow control by the Authority was in question forcing it to guarantee its waste flow via contract. The renewal of this contract in 2007 was not as important as it was in 1996 as Authority flow control had been determined to be legal and Oneida County Law stated that all waste generated within the County must go to Authority facilities. However, this renewal did guarantee the Department would be charged the lowest disposal fees available.

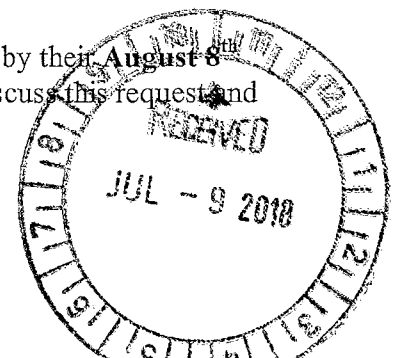
Over the past 6 months, the Department, in conjunction with the Department of Law, has been working on renewing this contract. Both parties wanted to take the opportunity to formalize business and operational changes that had taken place between the parties since the last renewal.

In summary, the agreement states that the Department will bring all of its solid waste to the Authority and pay the going rate for disposal. The current rate for wastewater treatment plant byproducts is \$62.00/gallon, including transportation. The Department further agrees to dispose of leachate and source separated organic slurry at its facilities at a rate of 2 cents per gallon.

It is important to note that the Authority provides transportation to its landfill for wastewater treatment byproducts because of the favorable leachate disposal rate that it currently receives.

The agreement also states that the County will give the Authority all proceeds from a Climate Smart Community Grant that the County obtained so that the Authority could construct, at its own expense, a source separated organics processing facility. The source separated organic slurry will then be disposed of at Department facilities and be charged the rate listed above.

I would appreciate consideration of this matter by you and the Board of Legislators by their **August 8th meeting**. I am available to meet with you and the Board at your convenience to discuss this request and explain the change in the contract in more detail.





The Honorable Anthony J. Picente, Jr.
Page 2 of 2

Sincerely,
**THE ONEIDA COUNTY DEPARTMENT OF
WATER QUALITY AND WATER POLLUTION CONTROL**

Steven P. Devan, P.E.
Commissioner

Cc: William A. Rabbia, Executive Director, Oneida-Herkimer Solid Waste Authority

Oneida Co. Department: Water Quality & Water Pollution Control

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD OF LEGISLATORS
CONTRACT SUMMARY**

Name & Address of Vendor: Oneida-Herkimer Solid Waste Authority
1600 Genesee St.
Utica, NY 13502

Title of Activity or Service: Solid Waste Disposal Services
Leachate/Source Separated Organics Disposal

Proposed Dates of Operation: 1/1/2018-12/31/2027

Client Population/Number to be Served: Approximately 110,000

Summary Statements

- 1) Narrative Description of Proposed Services:** The agreement states that the Department will bring all of its solid waste to the Authority and pay the going rate for disposal. The current rate is \$62.00/gallon, including transportation. The Department further agrees to dispose of leachate and source separated organic slurry at its facilities at a rate of 2 cents per gallon.
- 2) Program/Service Objectives and Outcomes:** Provide solid waste disposal for the Department. Provide disposal of leachate and source separated organics for the Oneida-Herkimer Solid Waste Authority.
- 3) Program Design and Staffing:** Contract will be monitored by Department staff.

Total Funding Requested: Varies **Account #:** G8130.495

Oneida County Dept. Funding Recommendation: Varies

Proposed Funding Sources (Federal \$/ State \$/County \$): Department operating budget

Cost Per Client Served: Depends on quantity of solid waste generated

Past Performance Data: This is a renewal/enhancement of an existing, but expired, contract with the Oneida-Herkimer Solid Waste Authority

O.C. Department Staff Comments: Oneida County Law states that solid waste disposal must occur through the Oneida-Herkimer Solid Waste Authority.



1600 Genesee Street, Utica, New York 13502
T 315.733.1224 | F 315.733.2305
ohswa.org

Preserving the environment through integrated recovery and disposal.

June 12, 2018

John Balzano, Esq.
Oneida County Department of Law
800 Park Avenue
Utica, NY 13501

Re: OCSD – Extension and Addendum of Solid Waste Collection and Disposal Agreement

Dear Mr. Balzano:

As requested, attached please find two original signed copies of the Extension and Collection of Solid Waste Collection and Disposal Agreement between the Oneida-Herkimer Solid Waste Management Authority and the Oneida County Sewer District.

Please let me know if you need anything additional, and forward one final executed original when completed.

Thank you for your assistance.

Sincerely,

William A. Rabbia
Executive Director

WAR/aag

Attachment

cc: Kevin Martin, Authority Counsel
Steven Devan, Oneida County Sewer District

O:\DOCUMENTS\CONTLTRS\Balzano-John_Oneida Co Dept Law_OCSD Extension and Addendum SW agmL_20180612_war.docx

BOARD OF DIRECTORS

Kenneth A. Long
Chairman

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Authority Board Secretary

Barbara Freeman

James M. Williams

Find us on

EXTENSION AND ADDENDUM OF SOLID WASTE COLLECTION AND DISPOSAL AGREEMENT

This Extension and Addendum of Solid Waste Collection and Disposal is by and between the ONEIDA-HERKIMER SOLID WASTE MANAGEMENT AUTHORITY, a public benefit corporation organized under the laws of the State of New York, and having its principal place of business at 1600 Genesee Street, Utica, New York (hereinafter, the "Authority"); and the ONEIDA COUNTY SEWER DISTRICT, with its principal place of business at 51 Leland Avenue, Utica, New York 13502 (hereinafter, the "OCSD"), (collectively referred to as "the parties").

WHEREAS, the Authority and the OCSD entered into a Solid Waste Collection and Disposal Agreement effective as of January 1, 2007 and expiring on December 31, 2017 (the "Agreement"); and

WHEREAS, under the Agreement the Authority agreed to provide solid waste management and disposal services to the OCSD, to deliver a portion of leachate waste generated at the Authority's Regional Landfill to the OCSD Wastewater Treatment Facility and the OCSD would treat the leachate; and

WHEREAS, OCSD agreed to deliver all solid waste generated by the OCSD to the Authority; and

WHEREAS, the Authority is planning to construct a Source Separated Organics Processing Facility at the Authority's Utica Complex; and

WHEREAS, the Authority assisted OCSD in applying for a Climate Smart Community Grant to fund 50% of the construction cost of the Source Separated Organics Processing Facility contingent upon the Authority's construction of such facility; and

WHEREAS, the OCSD has agreed to remit the Climate Smart Community Grant proceeds to the Authority upon completion of construction of the Source Separated Organics Processing Facility and provide grey water to the facility at no charge to the Authority; and

WHEREAS, a byproduct of the operation of the Source Separated Organics Processing Facility is organic slurry; and

WHEREAS, the OCSD Waste Water Treatment Facility will be able to digest the organic slurry and convert it to electricity; and

WHEREAS, the parties wish to extend the term of the Agreement for an additional ten (10) year period;

NOW, THEREFORE, in consideration of the premises and covenants contained in the Agreement and this Extension Agreement, it is hereby agreed:

The term of the Agreement in paragraph "12" thereof is hereby extended for a period of ten (10) years commencing on January 1, 2018 and continuing through and until December 31, 2027 (hereinafter "the Extension Term").

During the Extension Term, the Authority shall deliver to the OCSD Wastewater Treatment Facility for treatment a portion of the leachate generated at the Regional Landfill and the organic slurry from the Source Separated Organics Processing Facility. The OCSD shall provide treatment of the leachate and organic slurry at a rate of two cents per gallon (\$0.02/gal). The rate for treatment of leachate and slurry by the OCSD may be adjusted once annually each July during the Extension Term upon the written, mutual consent of the parties hereto.

The adjusted rate for treatment of leachate and organic slurry by the OCSD shall take effect on January 1 of the year following the adjustment, unless otherwise agreed by the parties. The OCSD shall provide treatment by the OCSD Wastewater Treatment Facility of septic waste from the Authority's Utica Complex at the "in pipe rate" charged by the OCSD (currently \$0.00413 per gallon).

The Authority does not guarantee it will provide OCSD any minimum amount of leachate or organic slurry from the Authority's landfill or proposed Source Separated Organics Processing Facility and shall not be liable for any claim, loss or damages of any kind resulting from a disruption or cessation of the supply of leachate or organic slurry for any reason.

In the event that OCSD is at capacity and cannot accept leachate or organic slurry through no fault of its own, or is unable to accept leachate or organic slurry through no fault of its own for any other reason, then the OCSD shall not be liable for any claim, loss or damages of any kind resulting from a disruption or cessation of the ability to accept leachate or organic slurry.

In the event that the Authority is unable to accept Wastewater Treatment Byproducts (Sludge) from OCSD through no fault of its own, then the Authority shall not be liable for any claim, loss or damages of any kind resulting from a disruption or cessation of the ability to accept Sludge.

The Authority currently provides transportation of the OCSD's wastewater treatment sludge to the Regional Landfill at no charge. The charge for transportation of the OCSD's wastewater treatment sludge to the Regional Landfill shall be reviewed annually in July with any adjustment in the charge for transportation of

the OCSD's wastewater treatment sludge to take effect on January 1 of the year following the adjustment, unless otherwise agreed by the parties.

Upon written notice from the OCSD or the Authority, the parties hereto agree to meet at mutually convenient times and places beginning in July and continuing for any mutually agreed times and places thereafter to confer on any adjustment(s) to the rates and charges to be made under paragraphs 2 and 3 above.

The Authority will maintain an integrated system fee (ISF) that is designed and intended to encourage waste reduction and recycling; and the ISF covers a broad range of services for haulers and the waste generators they serve.

The Authority guarantees to OCSD that during the term of this Agreement and all extensions of the term of this Agreement, OCSD will be charged the lowest fee per category for each category of waste, as identified herein, generated by OCSD to the Authority facilities.

ISF Contract Rates

<u>Waste Category</u>	<u>2018</u>
Wastewater Treatment Byproducts (Sludge)	\$62.00 per ton
Residential Municipal Solid Waste	\$62.00 per ton
Construction & Demolition Debris	\$58.00 per ton
Construction & Demolition Debris Transfer & Disposal Trailer	\$58.00 per ton
Recyclables (Delivered to Authority Recycling Center)	\$ 0.00

Note: ISF Contract rates may be adjusted as necessary by the Authority Board of Directors, following a public hearing.

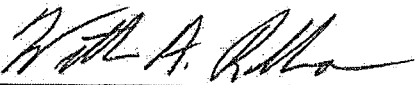
Each and every other term and condition set forth in the Agreement not otherwise amended or rendered inapplicable by this Extension Agreement or any subsequent amendment or modification shall remain in full force and effect during the Extension Term.

Dated: _____

ONEIDA COUNTY SEWER DISTRICT

Anthony J. Picente
Oneida County Executive

ONEIDA-HERKIMER SOLID WASTE MANAGEMENT AUTHORITY



William A. Rabbia, Executive Director



ONEIDA COUNTY DEPARTMENT OF PERSONNEL

County Office Building 800 Park Avenue Utica, New York 13501-2986
Phone: (315) 798-5725 Fax: (315) 798-6490 Email: personnel@ocgov.net
Web site: www.ocgov.net

July 6, 2018

FN 20 18-245

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear County Executive Picente:

Attached for your review and approval is correspondence from Robin E. O'Brien, Commissioner of Mental Health, requesting the creation of one (1) Social Worker position, Grade 35M, Step 2 at \$52,250.

As stated in Commissioner O'Brien's letter, the Department of Social Services and the Department of Mental Health have jointly determined the Safe Harbour Program, located at the Child Advocacy Center, is in need of a Social Worker to coordinate the various activities, provide and/or facilitate community wide training and direct the service planning for identified exploited youth. This position will aid in meeting requirements of the federal legislation 'Preventing Sex Trafficking and Strengthening Families Act'. Safe Harbour grant funding will be used to pay for the associated costs of the position. It is anticipated this funding will be available through 2020.

If you concur with this request, please forward this letter to the Board of Legislators and ask that they create one (1) Social Worker position, Grade 35M, Step 2 at \$52,250.

Sincerely,

Sandra Dare
Deputy Commissioner of Personnel

Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
County Executive
Date 7-9-18

Attachments

Copy: Robin E. O'Brien, Commissioner of Mental Health
Colleen Fahy-Box, Commissioner of Social Services
County Attorney
Budget



Anthony J. Picente, Jr., County Executive

Robin E. O'Brien, Commissioner



Phone: (315) 768-3660
Fax: (315) 768-3670
Website: www.ocgov.net
Email: mentalhealth@ocgov.net

120 Airline Street
Suite 200
Oriskany, New York 13424

John Talerico, Commissioner
Oneida County Department of Personnel
Oneida County Office Building
800 Park Avenue - 6th floor
Utica, New York 13501

Re: New Position - Social Worker

July 5, 2018

Dear Commissioner Talerico,

The requirements of the federal legislation 'Preventing Sex Trafficking and Strengthening Families Act' has created additional responsibilities for local governments to prevent and protect at risk youth from becoming victims of sex or labor trafficking. The Act requires that policies, procedures, and tools to identify and respond to child victims of exploitation be developed and implemented. Child sexual and labor trafficking is a very complicated issue and assisting children who are victims, or who are at risk, requires a high level of knowledge, training and sensitivity to the problem. New York State Office of Children and Families Services has been instrumental in this project and has provided multiple year grant funding through the Safe Harbour initiative to local departments of social services to institute programs within each County that can address this serious social issue. It is the recommendation that each County establish a multidisciplinary approach to address the problem and to identify a person to coordinate these efforts. In Oneida County, the Safe Harbour Program is located at the Child Advocacy Center, a multidiscipline program within the Department of Social Services that oversees cases of child abuse, as it will be beneficial to build upon the existing relationships and practices already established.

The Department of Social Services and the Department of Mental Health have been working together on this initiative. It is our recommendation that the program is in need of a position of Social Worker to coordinate the various activities, provide and/or facilitate community wide training and direct the service planning for identified exploited youth. The Department of Social Services will use Safe Harbour grant funding to pay for the associated costs of the position and it is anticipated Safe Harbour funding to be available through 2020. The position would be located at the Child Advocacy Center but be part of the Oneida County Department of Mental Health for purposes of supervision and training.

I respectfully request approval of this position for the purposes described. Thank you for your consideration.

Sincerely,

Robin E. O'Brien

Jurisdictional Class: Competitive
EEO Category: Professional
Revised: 07/05/2018

SOCIAL WORKER

DISTINGUISHING FEATURES OF THE CLASS: This position involves responsibility for providing professional social work services. An employee in this position is responsible for planning, organizing, and developing and directing the Social Service programs in accordance with current Federal, State, and local standards, guidelines and regulations, to assure that the medical, emotional and social needs of youth at risk of abuse or neglect or exploitation are met/maintained on an individual basis. An employee in this position serves as a member of an interdisciplinary human services team involving social services professionals, mental health professionals, medical staff, domestic violence service providers and law enforcement, formulating and implementing a service plan designed to protect children from abuse and neglect. The work is performed within prescribed guidelines, and within the parameters of established regulation and policy. Employees in this position are expected to be knowledgeable of the significant psycho-social components of well-being and understand the impact of abuse and neglect on children and families functioning. Work is performed under the supervision of a higher-level employee. Supervision is exercised over the work of subordinate personnel. Does related work as required.

TYPICAL WORK ACTIVITIES: (Illustrative Only)

Plans, organizes, implements, evaluates and directs social service programs;
Assists in the development, administration and coordination of department policies and procedures;
Assesses psycho-social needs of clients, by participating in interdisciplinary human services team and formulation of appropriate service plans;
Establishes social work goals focusing on child safety, well-being and minimizing trauma associated with abuse, neglect and exploitation;
Provides supportive social work services to help clients cope with trauma and stress resulting from abuse, neglect or exploitation;
Provides consultation to staff regarding the social and emotional aspects of child abuse, neglect and exploitation and traumatic experiences;
Records significant social services progress data and periodic reassessment in case records;
Modifies social service goals or treatment consistent with changes in client service needs;
Assists staff involved with a case in assuring Quality Assessments case planning requirements implementing appropriate service plans;
Assigns, trains, and supervises the work of subordinate staff engaged in providing social services assistance to clients and their families;
Assists with all personnel functions necessary;
Maintains information on community, social services and health resources which can be utilized to enhance child and family service planning;
Participates in the development, implementation of, and adherence to, Department policy regarding social services regulation and policy;
Serves on, participates in, and attends various committees of the Department, as required;

continued...

TYPICAL WORK ACTIVITIES (cont'd):

Assists in preparation of Departmental budget;
Prepares a variety of records and reports related to the work.

FULL PERFORMANCE KNOWLEDGE, SKILLS, ABILITIES AND PERSONAL

CHARACTERISTICS: Good knowledge of the practices and procedures of social work and of the social and psychological factors related to child abuse, neglect and exploitation; working knowledge of State and Federal rules, regulations and requirements related to social services and child welfare; ability to counsel clients and their families; ability to function as a member of an interdisciplinary human services team; ability to interpret Federal, State, and local laws and regulations regarding the delivery of social work services in an integrated team model within a child welfare setting; ability to plan and supervise the work of others; ability to prepare records and reports related to social services activities; ability to utilize community resources effectively to meet client and family social service needs; ability to confer with, and provide, social services consultation to other professionals; and a compassionate unbiased response to youth who have experienced abuse, neglect or exploitation.

MINIMUM QUALIFICATIONS: Graduation from a regionally accredited or New York State registered college or university with a Master's Degree in Social Work **AND** a current license to practice licensed master social work (LMSW) or clinical social work (LCSW).

SPECIAL REQUIREMENT: Possession of a valid New York State driver's license at time of appointment. License must remain valid throughout appointment.

Adopted: 10/03/1996
Revised: 07/05/2018



Anthony J. Picente, Jr., County Executive

Robin E. O'Brien, Commissioner



120 Airline Street
Suite 200
Oriskany, New York 13424

Phone: (315) 768-3660
Fax: (315) 768-3670
Website: www.ocgov.net
Email: mentalhealth@ocgov.net

May 15, 2018

FN 20 18-242

HEALTH & HUMAN SERVICES

WAYS & MEANS

Honorable Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

Dear Mr. Picente:

I am forwarding four (4) copies of an Amendment to the Purchase of Services Agreement between the Oneida County Department of Mental Health and **Upstate Cerebral Palsy, Inc.** for your review and signature.

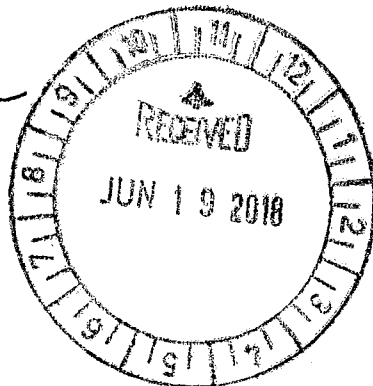
The Amendment begins on **January 1, 2018 and ends on December 31, 2020**. The total funding amount for the three-year term of the Original Agreement will now be **\$3,167,268.00**, which includes \$1,055,756.00 for year 2018, \$1,055,756.00 for year 2019, and \$1,055,756.00 for year 2020. The amount reflects a Cost of Living Adjustment (COLA) in the State funding for these programs. This COLA amounts to a total increase in the Agreement of \$77,487.00, which includes a \$25,829.00 annual increase in funding. This Amendment, along with the original Agreement, is supported by **100% OMH State Aid Funding**.

Thank you very much for your time and consideration of this request. I would be pleased to respond to any questions or concerns you might have with regard to this Agreement.

Respectfully,

Robin E. O'Brien

Robin E. O'Brien
Commissioner



Reviewed and Approved for submittal to the
Oneida County Board of Legislator by

Anthony J. Picente, Jr.

Anthony J. Picente, Jr.
County Executive

Date 6-18-18

REO/ts
Encs.

Oneida Co. Department: MENTAL HEALTH

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other X

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor:

Upstate Cerebral Palsy, Inc.
1020 Mary Street
Utica, NY 13501

Title of Activity or Service:

Supported Housing/Case Management
Mentally Ill Chemical Abuse Network (MICA)
Assisted Competitive Employment (ACE)
Ongoing Integrated Supported Employment (OISE)
Advocacy

Proposed Dates of Operation:

January 1, 2018 through December 31, 2020
(Amendment – OMH COLA)

Client Population/Number to be Served:

Adults and children with serious and persistent mental illness.

Summary Statements

1) Narrative Description of Services provided in Original Agreement:

- a. Supported Housing/Case Management – supported housing services assist consumers in locating and securing mainstream housing of their choice and accessing the supports necessary to live successfully in the community.
- b. Mentally Ill Chemical Abuse Network (MICA) – assists the homeless with a co-diagnosed along with substance abuse, live successfully in the community.
- c. Assisted Competitive Employment (ACE) – Temporary, short-term supports to individuals interested in returning to the workforce.
- d. Ongoing Integrated Supported Employment (OISE) – competitive employment in integrated community settings with supports.
- e. Advocacy – linkage to mental health legal services or access to peer services.

2) Program/Service Objectives and Outcomes: The primary objective of all services is to support individuals to help them achieve and maintain the most independent level of functioning in their lives.

3) Program Design and Staffing: All services are licensed by the NYS Office of Mental Health (OMH), as applicable. Assisted Competitive Employment is monitored and certified through the NYS Education Department Bureau of Vocational & Educational Services for Individuals with Disabilities (ACCESS-VR). All programs meet the appropriate staffing models developed and monitored by the NYS Office of Mental Health (OMH) in concert with the NYS Division of Budget (DOB) and in conjunction with guidelines and regulations.

Total Funding Requested: \$3,167,268.00

Account # A4310.49517

Oneida County Dept. Funding Recommendation: \$3,167,268.00

Proposed Funding Sources (Federal \$/ State \$/County \$): State \$

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: 100% State OMH Funding reflects an increase COLA in the amount of \$77,487.00 per contract term (\$25,829.00 per year).

AMENDMENT

THIS AMENDMENT is between Oneida County, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, by and through its Department of Mental Health, with offices at 120 Airline Street, Suite 200, Oriskany, New York 13424, hereinafter collectively referred to as the "County," and Upstate Cerebral Palsy, Inc., a domestic not-for-profit corporation organized and existing under the laws of the State of New York, having its principal office located at 1020 Mary Street, Utica, New York 13501, hereinafter referred to as the "Provider Agency."

WITNESSETH

WHEREAS, the County and the Provider Agency entered into an agreement whereby the Provider Agency provides mental health services to Oneida County residents, hereinafter referred to as the "Original Agreement" (County contract no. 22436), a copy of which is attached hereto as Exhibit "B." The Original Agreement is in effect from January 1, 2018 through December 31, 2020; and

WHEREAS, since the execution of the Original Agreement, New York State Office of Mental Health, herein referred to as "OMH," adjusted the funding provided in the Original Agreement to reflect an additional Cost of Living Adjustment (COLA) of \$77,487.00;

WHEREAS, this COLA amount changes requires an amendment of Section 3 of the Original Agreement, which addresses how the County pays the Provider Agency; and

WHEREAS, the parties desirous of entering into an amendment of the Original Agreement regarding the following provisions,

NOW THEREFORE, in consideration of the mutual promises made herein, the parties hereto agree as follows:

1. Section 3 of the Original Agreement shall be replaced with the following language:

For the Services provided, the Oneida County Department of Mental Health will reimburse the provider Agency a maximum of Three Million One Hundred Sixty-Seven Thousand Two Hundred Sixty-Eight Dollars and no cents (\$3,167,268.00) during the term of this Agreement. This shall include but not be limited to travel time, evaluation time and any court time as deemed necessary by the court before which the Provider Agency must appear. The payment schedule will be based upon submission of an Oneida County Voucher to the Department. Vouchers submitted by the Provider Agency shall include a detailed and itemized description of the services provided under this Agreement for the period captured in the voucher. Annexed hereto and made part hereof as Appendix A is the Provider Agency's contract budget for the term of this Agreement.

- a. The total amount stated above may be changed by New York State on a year-to-year basis as the State changes its funding determinations. This change may necessitate an amendment of this Agreement. Such an amendment may require formal approval by the County's Board of Legislators.
2. Appendix A of the Original Agreement, which is the Provider Agency's contract shall be replaced with the Appendix A that is attached hereto and made a part hereof.
3. All other terms of the Original Agreement remain in effect without change or alteration.

IN WITNESS THEREOF, the County and the Provider have signed this Amendment on the day and year first above written.

COUNTY OF ONEIDA COUNTY

UPSTATE CEREBRAL PALSY, INC.

By: _____
Anthony J. Picente, Jr.
Oneida County Executive

By: Geno De Condo
~~Louis B. Tehan~~
~~President and CEO.~~

Geno De Condo
Executive Director

Approved

Raymond F. Bara
Assistant County Attorney

UPSTATE CEREBRAL PALSY		TOTAL THREE YEAR BUDGET: \$		3,167,268.00
APPENDIX A				
YEAR	2018	2019	2020	
OMH:	\$ 1,055,756.00	\$ 1,055,756.00	\$ 1,055,756.00	
OASAS:	-	-	-	
OPWDD:	-	-	-	
COUNTY:	-	-	-	
ANNUAL TOTAL:	\$ 1,055,756.00	\$ 1,055,756.00	\$ 1,055,756.00	
MONTHLY VOUCHER:	\$ 87,980.00	\$ 87,980.00	\$ 87,980.00	
LAST VOUCHER:	\$ 87,976.00	\$ 87,976.00	\$ 87,976.00	
AMENDMENT				
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
ADJUSTED TOTAL:	\$ 1,055,756.00	\$ 1,055,756.00	\$ 1,055,756.00	
APPENDIX A				
YEAR	2018	2019	2020	
OMH:	\$ 1,055,756.00	\$ 1,055,756.00	\$ 1,055,756.00	
OASAS:	-	-	-	
OPWDD:	-	-	-	
COUNTY:	-	-	-	
ANNUAL TOTAL:	\$ 1,055,756.00	\$ 1,055,756.00	\$ 1,055,756.00	
MONTHLY VOUCHER:	\$ 87,980.00	\$ 87,980.00	\$ 87,980.00	
LAST VOUCHER:	\$ 87,976.00	\$ 87,976.00	\$ 87,976.00	
AMENDMENT				
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
	\$ -	\$ -	\$ -	
ADJUSTED TOTAL:	\$ 1,055,756.00	\$ 1,055,756.00	\$ 1,055,756.00	

AGREEMENT

THIS AGREEMENT between Oneida County, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, by and through its Department of Mental Health, with offices at 120 Airline Street, Suite 200, Oriskany, New York 13424, hereinafter collectively referred to as the "County," and Upstate Cerebral Palsy, Inc., a domestic not-for-profit corporation organized and existing under the laws of the State of New York, having its principal office located at 1020 Mary Street, Utica, New York 13501, hereinafter referred to as the "Provider Agency."

WITNESSETH:

WHEREAS, the County through its Department of Mental Health desires to establish a comprehensive and integrated system of community mental health services as required by Article 41 of the Mental Hygiene Law of the State of New York; and

WHEREAS, Article 41 of New York State Mental Hygiene Law mandates and authorizes the County through its Department of Mental Health to enter into a series of agreements, which establish a comprehensive and integrated system of community mental health services that will address the needs of the citizens and residents of Oneida County; and

WHEREAS, the Provider Agency hereby warrants that it has the proper and necessary staff and infrastructure to act as a provider and resource to and for the County's Department of Mental Health, hereinafter referred to as the "Department,"

NOW THEREFORE, in consideration of the covenants hereinafter expressed, the parties agree as follows:

1. The term of this Agreement shall be from January 1, 2018 through December 31, 2020 or until terminated according to the termination requirements contained within this Agreement.
2. Scope of Services. The Provider Agency shall:
 - a. Provide Supported Housing services to assist consumers in locating and securing housing, and providing supports to include financial assistance with security deposits, and purchasing furniture. Case Management Services as part of these Supported Housing services will include assistance in choosing housing, negotiating leases, financial consultations, assistance in daily living and linkage to needed services;
 - b. Facilitate Mentally Ill Chemical Abuser (MICA) Network Case Management Services to dually diagnosed homeless individuals. This facilitation will include the provision of support, advocacy, and linkage to treatment in an effort to avoid contacts with the criminal justice system and prevent homelessness;
 - c. Provide Assisted Competitive Employment (ACE) services, which are temporary, short-term supports to individuals interested in returning to the workforce. ACE services shall include intake/assessment, information and referral, job readiness skills, and job coaching;

- d. Provide Ongoing Integrated Supported Employment (OISE) services by securing competitive employment; and providing on-site coaching, employer consultation, and supports in integrated community settings;
 - e. Provide advocacy services to seriously and persistently mentally ill adults on an individualized and as needed basis, 24 hours per day and seven days per week. These advocacy services will include linkage to mental health legal services and/or access to peer services;
 - f. Referrals to the Provider Agency. The Provider Agency shall accept referrals for the services provided under this Agreement either from the County's (SPOA/A) or through Central New York Health Home Network, Inc.
 - i. If the Provider Agency accepts a referral through Central New York Health Home Network, Inc., the Provider Agency shall promptly provide a copy of that referral to the Department;
 - ii. If the Provider Agency declines a referral from Central New York Health Home Network, Inc. because it is inappropriate for the Provider Agency to service, then the Provider Agency shall provide prompt notice of such declination to the Department;
 - iii. On a monthly basis, the Provider Agency shall provide the Department with the following lists, with each list including the client's name and date of birth:
 - A. A list of all cases that are currently open to the Provider Agency, whether referred to the Provider Agency by the SPOA/A or the Central New York Health Home Network, Inc.; and
 - B. A list of all cases that have been closed by the Provider Agency since the last monthly report.
3. For the Services provided, the Oneida County Department of Mental Health will reimburse the provider Agency a maximum of Three Million Eighty-Nine Thousand Seven Hundred Eighty-One Dollars and no cents (\$3,089,781.00) during the term of this Agreement. This shall include but not be limited to travel time, evaluation time and any court time as deemed necessary by the court before which the Provider Agency must appear. The payment schedule will be based upon submission of an Oneida County Voucher to the Department. Vouchers submitted by the Provider Agency shall include a detailed and itemized description of the services provided under this Agreement for the period captured in the voucher. Annexed hereto and made part hereof as Appendix A is the Provider Agency's contract budget for the term of this Agreement.
- a. The total amount stated above may be changed by New York State on a year-to-year basis as the State changes its funding determinations. This change may necessitate an amendment of this Agreement. Such an amendment may require formal approval by the County's Board of Legislators.
4. The County will make payments to the Provider Agency either monthly or quarterly based on payments made to the County by New York State and the timely submission of correct monthly payment vouchers. Payments will be provided subsequent to services rendered and upon review of the voucher receipt submitted by the Provider Agency.
5. The Provider Agency agrees to participate in the development and implementation of the Local Governmental Plan required by New York State Mental Hygiene Law Section 41.18.

Participation may include but not necessarily be limited to: attendance at appropriate subcommittee meetings; notification to a subcommittee of intent to submit a Certificate of Need (CON) application and/or grant application which will modify services offered by the Provider Agency; submission of planning reports and CON applications and/or Prior Approval Review applications, which are required by 14 NYCRR Part 551, to the County prior to submission to the State; and attendance and cooperation with various ad hoc work groups of the subcommittee.

6. Independent Contractor Status.

- a. It is expressly agreed that the relationship of the Provider Agency to the County shall be that of an Independent Contractor. The Provider Agency's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Provider Agency and its employees, in accordance with their status as independent contractors, covenant and agree that they will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County or the Department by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Provider Agency warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar services to other entities and/or the general public as a regular course of business. Provider Agency and County agree that Provider Agency is free to undertake other work arrangements during the term of this Agreement, and may continue to make its services available to the public.
- c. The Provider Agency's employees shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Provider Agency acknowledges and agrees that neither Provider Agency, nor its employees, shall be eligible for any County employee benefits, including retirement membership credits.
- e. Provider Agency shall be solely responsible for applicable taxes for all compensation paid to Provider Agency or its employees under this Agreement, and for compliance with all applicable labor and employment requirements with respect to Provider Agency's self-employment, sole proprietorship or other form of business organization, and with respect to its employees, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Provider Agency shall provide proof of workers' compensation insurance, where applicable, prior to execution of this Agreement.
- f. The Provider Agency shall indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Provider Agency's Independent Contractor status, it is agreed that both the County and the Provider Agency shall have the right to participate in any

conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.

- h. The Provider Agency agrees to comply with Federal and State Laws as supplemented in the Department of Labor regulation and any other regulations of the Federal and State entities relating to such employment and Civil Rights requirements.
7. The Provider Agency agrees, where applicable, to provide any and all services, authorized by this Agreement or by other license or certification, to individuals who are subject to an Assisted Outpatient Treatment (AOT) order pursuant to New York State Mental Hygiene Law Section 9.60, as well as to individuals that meet the criteria for an AOT order but have been diverted from the formal court proceedings. The Provider Agency further agrees to provide any and all required client-specific information as required by the State of New York and/or the Department for monitoring purposes. It is expressly understood that all information sent to the Department will be handled in a safe and confidential manner.
8. In the event that the State or County approves or makes changes to the funding amount that is listed in Appendix A, the Provider Agency, at the request of the County shall submit a revised budget plan which reflects the approved operating costs, net operating costs, and funding by the various deficit funding sources. It is expressly understood that the County assumes no responsibility for either costs not approved for reimbursements by the either the County or the State; or changes to the budget anytime during the contract period. Should any expenses be disapproved in a post-audit by the State of New York or funds are not spent in the approved programs during the fiscal year, the Provider Agency shall submit a check payable to the County's Commissioner of Finance equal to the amount of any disallowance already paid to the Provider Agency by the County within thirty (30) days of notification. This provision shall apply to this Agreement and all previous agreements between the County and the Provider Agency.
9. The Provider Agency agrees to submit to the County, on the last business day of the following month at the end of each quarter (e.g., Jan-Mar report due April 30th), a quarterly financial analysis, performance analysis, and service utilization report. In addition, the Provider Agency agrees to submit the following reports by the listed required dates as applicable to funding received:
 - a. Office of Persons with Developmental Disabilities (OPWDD) budgets for the current year is required to be received by the County by February 1st.
 - b. Office of Alcoholism and Substance Abuse Services (OASAS) estimated claims for the prior year are required to be received by the County by April 15th.
 - c. Pre-Approved 30-day Office of Mental Health (OMH) Consolidated Fiscal Report (CFR) extension requests for the prior year OMH CFR are required to be received by the County by April 15th.
 - d. OMH, OASAS and OPWDD fully audited CFRs for the prior year that do not have a pre-approved 30-day extension (OMH only) are required to be received by the County by April 15th of each year. An OPWDD estimated CFR is required by this date if an extension was filed. An OASAS estimated claim is required to be received by this date; no extension allowed for OASAS CFRs.

- e. Fully audited CFRs for OMH, OPWDD, and OASAS for the prior year with an extension submitted for OMH and OPWDD and/or an estimated OASAS CFR supplied to the County by April 15th are required to be received by the County by May 15th.
 - f. OASAS mid-year claim for the current year is required to be received by the County by August 15th.
 - g. OASAS Consolidated Budget Report (CBR) for the next year is (with scope) required to be received by the County by September 15th.
 - h. OMH CBRs for the current year are required to be received by the County by October 15th.
 - i. The Provider Agency is only responsible for reporting to the New York State agency or agencies that provide the funding for this Agreement.
 - j. The Provider Agency shall comply with the County's contract monitoring, which will include contract compliance evaluations, completion of quality assurance participant surveys, and other measures deemed necessary by the County to ensure contract compliance.
10. The Provider Agency shall submit a copy of the following reports to the County during the first quarter of each Fiscal Year:
- a. Disaster Response Plan. In addition, the Provider Agency will participate in the development of an Oneida County plan to respond to man-made or natural disasters. The Provider Agency shall also provide the County with the Provider Agency's records regarding annual staff training on its Disaster Response Plan.
 - b. Accounting System & Financial Capability Questionnaire (where applicable).
 - c. Corporate Compliance Plan. The plan will reflect efforts to ensure that personnel are aware of and in compliance with relevant laws and regulations.
 - d. Annual Audit and Financial Reports.
 - e. Federal Single Audit Report. If the Provider Agency is scheduled to receive funds in excess of \$300,000.00 or more in a year in federal funds, exclusive of Medicaid and Medicare. The single audit shall be conducted in accordance with Office of Management Budget (OMB) Circular A-133, OMB Circular A-110, the OMB Circular A-102 and such other circulars, interpretations, opinions, rules or regulations that may be issued in connection with the Federal Single Audit Act Amendments of 1996.
11. The Provider Agency shall operate all programs in compliance with the laws, rules and regulations as passed and/or promulgated by the County, State or Federal governments. It is further understood by the Provider Agency that agencies and departments of New York State other than the OMH, OASAS, and OPWDD, may promulgate these rules and regulations.
12. The Provider Agency agrees to defend, indemnify and save harmless the County for any loss the County may suffer when such losses result from claims of any person or organization injured by the acts or omissions of Provider Agency, its officers and/or employees or subcontractors. Furthermore, the Provider Agency agrees to indemnify, defend, and save harmless the County, and its officers, agents, and employees from any and all claims and losses occurring or resulting from any and all contractors, subcontractors, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from all claims and losses occurring or resulting to any person, firm, or

corporation who may be injured or damaged by the Provider Agency in the performance of the this Agreement, and against any liability, including costs and expenses, for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, or use, or disposition of any data furnished under this Agreement or based on any libelous or other unlawful matter contained in such data or written materials in any form produced pursuant to this Agreement.

13. The Provider Agency shall obtain and maintain comprehensive general liability insurance satisfactory to the County with a minimum of \$1,000,000 per occurrence coverage and \$2,000,000 aggregate coverage. In addition, the Provider Agency shall obtain and maintain professional liability insurance satisfactory to the County with a minimum of \$1,000,000 per occurrence coverage and \$2,000,000 aggregate coverage. Further, the Provider Agency shall obtain and maintain umbrella liability insurance satisfactory to the County with a minimum of \$5,000,000 per occurrence coverage and \$5,000,000 aggregate coverage. Further, the Provider Agency shall obtain and maintain commercial automobile liability insurance satisfactory to the County with a minimum of \$1,000,000 combined single limit, such coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles. Further, the Provider Agency shall obtain and maintain Workers' Compensation and Employer's Liability insurance at the statutory limits in the State of New York. The County of Oneida shall be named as an "Additional Insured" on a "primary and non-contributing basis" in the Provider Agency's insurance policies. Proof of all insurance coverage must be provided to the County at the time of the execution of this Agreement. It is expressly understood that if during the course of this Agreement, said insurance policy is canceled or otherwise allowed to lapse, the Provider Agency must provide the County proof of insurance consistent with the requirements listed above. Failure to provide proof of insurance is a basis for the County to seek the immediate termination of this Agreement.
14. The Provider Agency waives all rights against Oneida County and their agents, officers, directors and employees for recovery of damages to the extent these damages are covered by commercial general liability, professional liability, or Workers' Compensation and Employers Liability insurance maintained per requirements stated above.
15. Either party may terminate this Agreement by giving fifteen (15) days prior written notice of such termination to the other party. Notwithstanding the above, if, through any cause, the Provider Agency fails to comply with legal, professional, County or State requirements for the provision of the services covered under this Agreement, or if the Provider Agency becomes bankrupt or insolvent or falsify their records or reports, the County may terminate this Agreement effective immediately, or, at its option, effective at a later date after sending notice of such termination to the Provider Agency.
 - a. The County shall be released from any and all responsibilities and obligations arising from the services covered by this Agreement, effective as of the date of termination. The County shall be responsible for payment of all claims for services provided and costs incurred by the Provider Agency prior to the termination of this Agreement that are pursuant to and after Provider Agency compliance with the terms and conditions herein.
 - b. Notice of termination must be in writing, signed by an authorized official, and sent to the other party by certified mail or messenger, and receipt shall be requested. Notice of

termination shall be deemed delivered as of the date of its posting by certified mail or at the time it is delivered to the other party by messenger.

- c. If any term or provision of this Agreement shall be found to be illegal or unenforceable, then, notwithstanding the Agreement shall remain in full force and effect and such term or provision shall be deemed stricken. The laws of the State of New York shall govern this Agreement and jurisdiction and venue shall lie within the State of New York.

16. The Provider Agency agrees to maintain files in a confidential manner pursuant to the applicable statutes contained in New York State Mental Hygiene Law and any State or Federal statute regulating such files. Information contained in these files shall be released only upon the written consent of the client being served or to the Department as outlined below.

- a. It is expressly understood that as a Provider Agency for the Department, it may and will receive confidential information from the Department and this information may have been received from other independent contractors and/or licensed agencies. The Provider Agency agrees that all such information will be considered as being confidential and shall not be re-disclosed without the written consent of the individual.
- b. Accordingly, as a condition of and in consideration of access to confidential information, the Provider Agency promises that:
- i. They will use confidential information only as needed to perform the duties outlined in the "Scope of Services" above for the Department and its Single Point of Access & Accountability (SPOA/A) program. This means, among other things, that:
 - A. The Provider Agency will only access confidential information for which there is a need to know; and
 - B. The Provider Agency will not in any way divulge, copy, release, sell, loan, review, alter or destroy any confidential information except as properly authorized; and
 - C. The Provider Agency will not misuse confidential information or carelessly handle confidential information.
 - ii. The Provider Agency will safeguard and will not disclose any access code or any other authorization that allows access to confidential information. The Provider Agency accepts responsibility for all activities undertaken using any access code and other authorization.
 - iii. The Provider Agency will report activities by any individual or entity that is suspected of or may compromise the confidentiality of confidential information. Reports made in good faith about suspect activities will be held in confidence to the extent permitted by law, including the name of the individual reporting the activities.
 - iv. The Provider Agency understands that the obligations under this Agreement will continue after termination of employment and that it is further understood that any privileges hereunder are subject to periodic review, revision and if appropriate, renewal.
 - v. The Provider Agency understands that there is no right or ownership interest in any confidential information referred to in this Agreement. The Department may at any time revoke any access code, other authorization, or access to confidential information. At all times during the course of providing services under this


Agreement, the Provider Agency will safeguard the confidentiality of all confidential information.

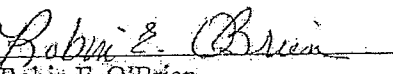
- iv. The Provider Agency will be responsible for any misuse or wrongful disclosure of confidential information and for any failure to safeguard an access code or other authorization access to confidential information. It is expressly understood that any failure to comply with this Agreement may result in immediate termination of access to the information system and legal action against the Provider.
17. The Provider Agency agrees not to discriminate or refuse assistance to individuals diagnosed with AIDS or an HIV infection or an HIV related illness. If the Provider Agency is provided with any confidential HIV related information during the course of providing services and in accordance with "Program Requirements For Social Services" found at 18 NYCRR Part 403, and the confidentiality and disclosure requirements of New York State Public Health Law Section 2782, they shall be informed of the penalties and fines for any re-disclosure found to be in violation of New York State law and/or regulation.
- a. The Provider Agency shall include the following written statement when disclosing any confidential HIV-related information:
 - i. "This information has been disclosed to you from confidential records, which are protected by State Law. State Law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State Law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure."
18. The Provider Agency agrees that its employees and agents, as mandated reporters, will report all instances of suspected child abuse, neglect, and/or maltreatment to the New York Statewide Central Register as required by New York State Social Services Law. Each verbal report to the Statewide Central Register shall be followed by the submission of completed Form 2221A ("Report of Suspected Child Abuse or Maltreatment") to the local Department of Social Services. The Provider Agency shall also notify the Commissioner of the Department of any and all reports made to the Statewide Central Register.
19. The Provider Agency is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed for equipment, tools, office space, support services or other general operating expenses.
20. The Provider Agency shall not be required to attend or undergo any training by the County. The Provider Agency shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.
21. Each party acknowledges that, in executing this Agreement, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Agreement.

22. It is understood that this instrument represents the entire Agreement of the parties hereto; both parties shall execute that all previous understandings are merged herein; and that no modifications hereof shall be valid unless written evidence shall be executed thereof.
23. Annexed hereto and made a part hereof as Appendix A (Contract Budget) and Appendix B (Standard Oneida County Contract Addendum), which are additional terms, covenants and conditions that the respective parties agree to be bound by and follow as part of this Agreement.

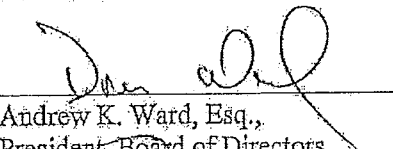
IN WITNESS THEREOF, the County and the Provider have signed this Amendment on the day and year first above written.

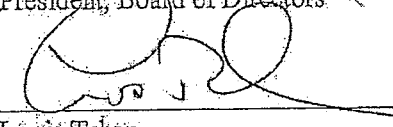
COUNTY OF ONEIDA

By:  3/1/18
Anthony J. Picente, Jr. Date
Oneida County Executive

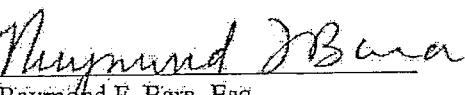
By:  12/20/17
Robin E. O'Brien Date
Commissioner, Department of Mental Health

UPSTATE CEREBRAL PALSY, INC.

By:  12/12/17
Andrew K. Ward, Esq. Date
President, Board of Directors

By:  12/12/17
Louis Tehan Date
President and Chief Executive Officer

Approved

By: 
Raymond F. Bara, Esq.
Assistant County Attorney

UPSTATE CEREBRAL PALSY		TOTAL THREE YEAR BUDGET:		\$ 3,089,781.00	
APPENDIX A		APPENDIX A		APPENDIX A	
YEAR	2018	YEAR	2019	YEAR	2020
OMH:	\$ 1,029,927.00	OMH:	\$ 1,029,927.00	OMH:	\$ 1,029,927.00
OASAS:	\$ -	OASAS:	\$ -	OASAS:	\$ -
OPWDD:	\$ -	OPWDD:	\$ -	OPWDD:	\$ -
COUNTY:	\$ -	COUNTY:	\$ -	COUNTY:	\$ -
ANNUAL TOTAL:	\$ 1,029,927.00	ANNUAL TOTAL:	\$ 1,029,927.00	ANNUAL TOTAL:	\$ 1,029,927.00
MONTHLY VOUCHER:	\$ 85,827.00	MONTHLY VOUCHER:	\$ 85,827.00	MONTHLY VOUCHER:	\$ 85,827.00
LAST VOUCHER:	\$ 85,830.00	LAST VOUCHER:	\$ 85,830.00	LAST VOUCHER:	\$ 85,830.00
AMENDMENT:		AMENDMENT:		AMENDMENT:	
	\$ -		\$ -		\$ -
	\$ -		\$ -		\$ -
	\$ -		\$ -		\$ -
	\$ -		\$ -		\$ -
	\$ -		\$ -		\$ -
	\$ -		\$ -		\$ -
ADJUSTED TOTAL:	\$ 1,029,927.00	ADJUSTED TOTAL:	\$ 1,029,927.00	ADJUSTED TOTAL:	\$ 1,029,927.00

STANDARD ONEIDA COUNTY CONTRACT ADDENDUM

THIS ADDENDUM, entered into on this 1 day of January 2018, between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, and thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. Executory or Non-Appropriation Clause.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.

Pursuant to Oneida County Board of Legislators Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.

a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.

2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.

b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,

1. The Contractor certifies that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
 - d. Have not within a three-year period, preceding this Contract, had one or more public transactions (Federal, State, or local) for cause or default;
- and

2. Where the Contractor is unable to certify any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

1. The Contractor will or will continue to provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - b. Establishing an on-going drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. The Contractor's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation, and employee assistance program; and
 4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
 - c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
 - d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
 1. Abide by the terms of the statement; and
 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
 - e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
 - f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
 - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).

2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

4. Health Insurance Portability and Accountability Act (HIPAA).

When applicable to the services provided pursuant to the Contract:

a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:

1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access protected health information electronically; and
3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.

b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
2. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
5. Make available protected health information in accordance with 45 CFR § 164.524;
6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.528;
7. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
8. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of, the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
9. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by the Contractor on behalf of, the County that the Contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this Contract to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

d. The Contractor agrees that this contract may be amended if any of the following events occurs:

1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or

3. There is a material change in the business practices and procedures of the County.

e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. Non-Assignment Clause.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. Workers' Compensation Benefits.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. Non-Discrimination Requirements.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any

employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

8. Wage and Hours Provisions.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County approved sums due and owing for work done upon the project.

9. Non-Collusive Bidding Certification.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. Records.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails and attachments, rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an

office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. Identifying Information and Privacy Notification.

a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must give the reason or reasons why the payee does not have such number or numbers.

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. Conflicting Terms.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. Governing Law.

This Contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

14. Prohibition on Purchase of Tropical Hardwoods.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the County.

15. Compliance with New York State Information Security Breach and Notification Act.

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

16. Gratuities and Kickbacks.

a. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. Audit

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to or permit the County to examine or obtain copies of any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a Federal financial assistance program from a Federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. Certification of compliance with the Iran Divestment Act.

Pursuant Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (OGS) website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any Bidder/Contractor seeking to renew or extend a Contract or assume the

responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

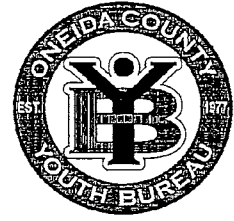
During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within 90 days after the determination of such violation, then the County shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.



ONEIDA COUNTY YOUTH BUREAU

Oneida County Office Building 1st floor
800 Park Avenue ♦ Utica, New York 13501
Phone: (315) 798-5027 ♦ Fax: (315) 798-6438



ANTHONY J. PICENTE, JR.
County Executive

KEVIN M. GREEN
Director

July 2, 2018

FN 20 18-247

Honorable Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, NY 13501

HEALTH & HUMAN SERVICES

WAYS & MEANS

Re: 2018 Resource Allocation Plan Grant

Dear Mr. Picente:

We are submitting the attached Resource Allocation Plan for the year 2018 for your review and approval.

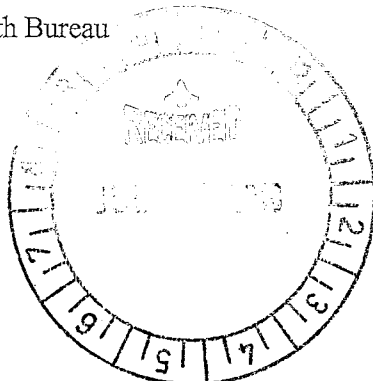
The Plan allocates funding from the New York State Office of Children and Family Services to the agencies contracting with the Oneida County Youth Bureau. The allocation of state funding is in the amount of \$307,064.00, which provides support to 26 different agency programs and 19 different programs provided by localities in Oneida County.

I am respectfully requesting that if this matter meets with your approval, it be forwarded to the Board of Legislators for action as soon as possible. Thank you for your consideration.

Very truly yours,

Kevin M. Green
Director, Oneida County Youth Bureau

Attachment



Reviewed and Approved for submittal to the
Oneida County Board of Legislator by

Anthony J. Picente, Jr.
County Executive

Date 7-5-18

Oneida Co. Department Youth Bureau

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other X

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name of Proposing Organization: NYS Office of Children & Family Services
Title of Activity or Service: Resource Allocation Plan (RAP) Grant
Proposed Dates of Operation: January 1, 2018 to December 31, 2018
Client Population/Number to be Served: 55,633 youth throughout Oneida County

Summary Statements:

Narrative Description of Proposed Services

The Resource Allocation Plan (RAP) for 2018 outlines the distribution of state funds received from the New York State Office of Children and Family Services to provide youth services, delinquency prevention, recreation and runaway/homeless youth programs to the young people, whose ages include birth to 24 years, in Oneida County. In 2018 these funds are to be distributed to 26 agency programs and 19 locality programs, which are responsible for the design and delivery of youth services at their level. All programs are monitored annually by Youth Bureau administrative staff and Advisory Board members appointed by the County Executive.

Total Funding: \$307,064.00 Account # A3820, A3823, A3902

Oneida County Dept. Funding Recommendation: \$307,064.00

Proposed Funding Sources (Federal \$/ State \$/County \$):
New York State Office of Children and Family Services (NYSOCFS)

Cost Per Client Served: Varies by program

Past Performance Data: Agencies are reviewed annually to assure they meet NYS OCFS performance standards. Agencies which do not meet standards may receive a reduction in, or elimination of fund allocations.

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES
RESOURCE ALLOCATION PLAN

Submitted herewith and incorporated herein is the Resource Allocation Package for Oneida County, containing the youth services program and project applications for the 2018 program year. This submission is one of the required components of the Children and Family Services Plan, which was approved by the Office of Children and Family Services (OCFS) on 3/14/2018.

The signing of this plan by the above-named County will qualify the County for State reimbursement for the program year, in accordance with OCFS's allocation of funds appropriated for counties engaged in comprehensive planning for the Children and Family Services Plan, provided that the youth services are rendered in accordance with the Rules and Regulations of OCFS and the Children and Family Services Plan guidelines and OCFS fiscal policies. Subject to the provisions hereof, the amount approved for allocation to the County is \$ 307064 as delineated in the program summary submitted herewith and incorporated herein.

OCFS will reimburse the County directly for expenditures relating to this Resource Allocation Package. OCFS will reimburse the County for expenditures made in accordance with the approved Program Applications and Budgets for the agencies listed on the program summary submitted herewith. Reimbursement will be made to the County only after the submission of vouchers and supporting documents which conform to applicable federal and State laws, rules, regulations, OCFS fiscal policies, procedures, and requirements, including those established by the Comptroller of the State of New York, and which are acceptable to OCFS as proof of expenditures. The County will submit, upon request, adequate and acceptable documentation to substantiate claims for reimbursement.

The County shall retain the overall responsibility to monitor and ensure the maintenance and availability of complete financial and project records for all programs. Within six weeks of the end of the program period, the County will submit Program Annual Reports on forms supplied by the Office of Children and Family Services.

The County agrees to permit on-site inspections and financial audits during the term of this Resource Allocation Plan and at any time thereafter by authorized representatives of OCFS and the New York State Comptroller, to keep records necessary to assure proper accounting for program funds, and to disclose fully the receipt and disposition of funds received under this Plan. The County agrees to allow OCFS, or its representatives when specifically directed by OCFS, to take possession of all books, records, and documents relating to this Plan provided, however, that OCFS will return to the County such books, records, and documents upon completion of OCFS's official purpose.

Any change or modification in the services to be rendered, or in the program budgets, must be approved in writing by OCFS, which reserves the right to modify the services rendered by the County or the program budgets at its discretion or when such modifications may be required by the State Comptroller.

OCFS may withhold approval for State Aid reimbursement for youth programs included in the Resource Allocation Package when there is noncompliance with this plan and/or the above referenced Rules, Regulations and Guidelines, or when the county does not have a Children and Family Services Plan approved by OCFS. This plan shall be deemed executory to the extent of monies made available to OCFS from the State of New York for Local Assistance programs and no liability on account thereof shall be incurred by OCFS or the State of New York beyond monies made available for such purposes.

The County certifies that a resolution was properly passed by the County Board approving this Resource Allocation

COUNTY CHIEF EXECUTIVE OFFICER:

COUNTY FISCAL OFFICER:

Signature:

Signature:

Date: 6/27/18

Date: 6/27/18

Print Name: Anthony J. Picente Jr.

Print Name: Joseph J. Timpano

Title: County Executive

Title: Comptroller

Address: 800 Park Avenue Utica, NY 13501

Address: 800 Park Avenue Utica, NY 13501

Oneida County 2018 OCFS Allocation

(Note: YDP programs were increased by 0.01%, RHY Part 1 was decreased by 1.99%
RHY2 was decrease of 18.61% Funding was provided to one new program)

2014 Youth Population = 56,242

Youth Development Program - (100%) YDP= 220,796

(Note 15% may be used for administrative) = 33,119

Youth Development Program	\$ 220,796
Run Away and Homeless Youth Part 1	\$ 33,788
Run Away and Homeless Youth Part 2	\$ 52,480
	<hr/>
Total 2018 OCFS Allocation	\$ 307,064

Note: Allocation is subject to change

2018 OCFS Allocation Distribution

YDP	\$ 220,796
RHY Part I & II	\$ 86,268

Oneida County 2018 OCFS Allocation

(Note: YDP Programs were increased by 0 .0067%)

YDP Breakdown

YDP=\$220,796

	<u>Increase</u>	2018	2017
<u>Workforce Development:</u>			
Green Corps		\$ 7,922	\$ 7,922
<u>Center for Family Life and Recovery:</u>			
Sexual Abuse Treatment		\$ 6,476	\$ 6,476
Partner in Prevention		\$ 8,271	\$ 8,271
Juvenile Perpetrators		\$ 6,351	\$ 6,351
Compeer for Kids		\$ 8,832	\$ 8,832
<u>YWCA of Mohawk Valley:</u>			
Sexual Violence Service	\$100	\$ 3,571	\$ 3,471
Sheltered Youth	\$100	\$ 5,491	\$ 5,391
Adolescent Outreach	\$100	\$ 5,011	\$ 4,911
<u>Johnson Park:</u>			
Children's Center	\$413	\$ 7,133	\$ 6,720
<u>Utica Safe Schools:</u>			
Underground Café		\$ 7,008	\$ 7,008
Mentoring Through Basketball	\$240	\$ 2,480	\$ 2,240
<u>Neighborhood Center:</u>			
Outreach and Prevention		\$ 10,024	\$ 10,024
Project Aim		\$ 13,799	\$ 13,799
<u>Co-Op Extension:</u>			
4-H Outreach		\$ 8,040	\$ 8,040
<u>The Root Farm:</u>			
		\$ 12,591	\$ 12,591

Oneida County 2018 OCFS Allocation

(Note: YDP Programs were increased by 0 .0067%)

YDP Breakdown Continued

	<u>Increase</u>	2018	2017
<u>Peacemaker:</u>			
Child Custody Advocate Program (CCAP)	\$50	\$ 6,881	\$ 6,831
<u>Thea Bowman</u>			
Kids with Promise		\$ 13,828	\$ 13,828
<u>Salvation Army-Utica:</u>			
Get Yourself Motivated(GYM)	\$70	\$ 4,390	\$ 4,320
<u>Catholic Charities:</u>			
Adolescent Parenting		\$ 6,854	\$ 6,854
<u>Probation:</u>			
Initial Response Team (IRT)		\$ 11,631	\$ 11,631
<u>Salvation Army-Rome:</u>			
Salvation Army Youth Enrichment (saYes)	\$80	\$ 3,551	\$ 3,471
<u>Dodge Pratt Art & Community Center:</u>			
Teens and Tweens Pick-up Steam	80	\$ 4,400	\$ 4,320
<u>Kids Oneida</u>			
Knowledge Empowers You	100	\$ 2,340	\$ 2,240
<u>Resource Center for Independent Living</u>			
Man Street		INCONE	\$ 2,240
<u>Total</u>	\$1,333	\$ 166,875	\$ 167,782

Oneida County 2018 OCFS Allocation

Runaway and Homeless Youth

Part I & II Breakdown

(Part 1 1.9% decrease)

RHY I=\$33,788

RHY II=\$52,480

(Note: 18.6 % decrease to Part 2 programs)

<i>Part I</i>	Decrease	2018	2017
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MVCAA:

Runaway & Homeless Youth	-\$685	\$	33,788	\$	34,473
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Part II

Neighborhood Center:

Transitional Life Skills		\$	7,075	\$	7,075
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Kids Oneida:

Evelyn's House	-\$2938	\$	45,405	\$	48,343
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<u>John Bosco House:</u>			NONE	\$	14,138
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Total:		\$	86,268	\$	104,029
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Part 1:

**Decrease of \$685

Part II:

**Decrease of \$17,076.00 from 2017 - taking into account the closing of John Bosco House (\$14,138), 2018 is actually a decrease of \$2938

Oneida County 2018 OCFS Allocations

Locality Breakdown

	Increase	2018	2017
Village of Camden	\$45	\$ 701	\$ 656
Town of Deerfield		\$ 1,055	\$ 1,055
Town of Marcy		\$ 1,581	\$ 1,581
Town of New Hartford		\$ 3,482	\$ 3,482
New Hartford Senior Center (Mentoring/Tutoring)		\$ 1,099	\$ 1,099
Village of New York Mills	\$51	\$ 730	\$ 679
Village of Oriskany	\$84	\$ 520	\$ 436
Village of Oriskany Falls	\$192	\$ 506	\$ 314
Town of Marshall	<u>NEW PROGRAM</u>	\$ 500	None
City of Rome (Juvenile Aid)		\$ 3,342	\$ 3,342
City of Rome (Summer Rec)		\$ 3,342	\$ 3,342
City of Sherrill		\$ 736	\$ 736
City of Utica (Juvenile Aid)		\$ 7,602	\$ 7,602
City of Utica (Dick Miller)		\$ 7,602	\$ 7,602
City of Utica (Recreation Safety)		\$ 17,742	\$ 17,742
Town of Vienna		\$ 1,103	\$ 1,103
Town of Vernon		\$ 898	\$ 898
Town of Floyd		\$ 851	\$ 851
Village of Waterville/Sangerfield	\$50	\$ 530	\$ 479
Total:	\$422	\$ 53,922	\$ 52,999

Anthony J. Picente Jr.
County Executive

Colleen Fahy-Box
Commissioner



ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES

County Office Building, 800 Park Avenue, Utica, NY 13501
Phone (315) 798-5733 Fax (315) 798-5218

June 11, 2018

FN 20 18248

Honorable Anthony J. Picente Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

HEALTH & HUMAN SERVICES
WAYS & MEANS

Dear Mr. Picente:

Oneida County is in receipt of an amendment to a grant from Office of Children and Family Services to provide additional grant funds in the amount of \$ 18,943.50 for the time period of August 1, 2018 through January 31, 2019. The original grant was for the time period of August 1, 2013 through July 31, 2018 in the amount of \$189,435.00. The additional funds are approved to be used for the Child Fatality Review Team (CFRT).

The purpose of the Child Fatality Review Team is to investigate the death of any child whose care and custody or custody and guardianship has been transferred to an authorized agency, any child for whom child protective services has an open case, any child for whom the local department of social services has an open preventive service case and in the case of a report made to the New York Central Register involving the death of a child; A fatality review team may also investigate any unexplained or unexpected death of any child under the age of eighteen.

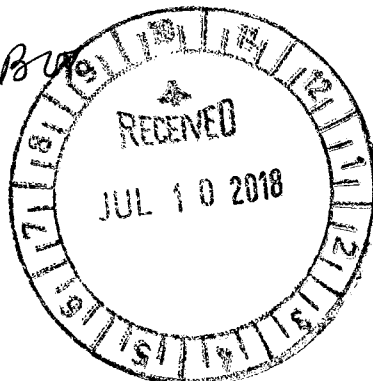
There will be no county funds utilized to support this effort. I am available at any time to further discuss this grant should you have any questions.

I am respectfully requesting that this matter be forwarded to the Board of Legislators for acceptance of these grant funds.

Sincerely,

Colleen Fahy-Box
Colleen Fahy-Box
Commissioner

CFB/vlc
attachment



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by
Anthony J. Picente, Jr.
Anthony J. Picente, Jr.
County Executive
Date 7-10-18

35401

Oneida Co. Department Social Services

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other X

Oneida County Board of Legislators
Contract Summary

Name of Proposing Organization: New York State Office of Children and Family Services
52 Washington Street
Rensselaer, New York 12144

Title of Activity or Services: Child Fatality Review Team

Proposed Dates of Operations: Amendment- August 1, 2018 through January 31, 2019

Client Population/Number to be Served:

SUMMARY STATEMENTS

1). Narrative Description of Proposed Services

The purpose of the Child Fatality Review Team is to review the circumstances of the death of any child whose care and custody or custody and guardianship has been transferred to an authorized agency, any child for whom child protective services has an open case, any child for whom the local department of social services has an open preventive service case, and any time a report is made to the New York Statewide Central Register involving the death of a child. The Child Fatality Review Team may also review an unexplained or unexpected death of any child under the age of eighteen.

2). Program/Service Objectives and Outcomes

- Increase the percentage of reported childhood deaths.
- Maintain accurate records of reports, arrests, prosecutions and convictions, coordinate quarterly meetings, facilitate trainings, collect data, and provide community outreach based on needs assessment.
- Provide a review process for child fatality in an effort to prevent future child deaths and promote child safety.

3). Program Design and Staffing Level -

Total Grant Amount: Extension	\$18,943.50
Original	\$189,435.00

Mandated or Non-Mandated – Non-Mandated the local district may establish a Child Fatality Review Team with the approval of New York State Office of Children and Family Services.

Oneida County Dept. Funding Recommendation: A2703 - 100% funds through New York State Office of Children and Family Services

Proposed Funding Source (Federal \$ /State \$ / County \$):

Federal	0%
State	100%
County	0%

Cost Per Client Served:

Past performance Served: The Department began the Child Fatality Review Team in August 2007 and has received 100% grant funding from New York State Office of Children and Family Services to support this program. This grant extension provides additional funding in the amount of \$18,943.50 for the time period of August 1, 2018 through January 31, 2018.

O.C. Department Staff Comments:

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>STATE AGENCY (Name & Address):</p> <p>NYS Office of Children and Family Services 52 Washington Street Rensselaer, NY 12144</p>	<p>BUSINESS UNIT/DEPT. ID: CFS01 / 3400000</p> <p>CONTRACT NUMBER: C027046</p> <p>CONTRACT TYPE:</p> <p><input checked="" type="checkbox"/> Multi-Year Agreement <input type="checkbox"/> Simplified Renewal Agreement <input type="checkbox"/> Fixed Term Agreement</p>
<p>CONTRACTOR SFS PAYEE NAME:</p> <p>ONEIDA COUNTY OF</p>	<p>TRANSACTION TYPE:</p> <p><input type="checkbox"/> New <input type="checkbox"/> Renewal <input checked="" type="checkbox"/> Amendment</p>
<p>CONTRACTOR DOS INCORPORATED NAME:</p> <p>Oneida County</p>	<p>PROJECT NAME:</p> <p>Child Fatality Review Teams</p>
<p>CONTRACTOR IDENTIFICATION NUMBERS:</p> <p>NYS Vendor ID Number: 1000002595 Federal Tax ID Number: DUNS Number (if applicable):</p>	<p>AGENCY IDENTIFIER:</p> <p>CFDA NUMBER (Federally Funded Grants Only):</p>
<p>CONTRACTOR PRIMARY MAILING ADDRESS:</p> <p>800 PARK AVE UTICA NY 13501</p> <p>CONTRACTOR PAYMENT ADDRESS:</p> <p><input type="checkbox"/> Check if same as primary mailing address</p> <p>800 PARK AVE UTICA NY 13501</p> <p>CONTRACT MAILING ADDRESS:</p> <p><input type="checkbox"/> Check if same as primary mailing address</p> <p>800 PARK AVE UTICA NY 13501</p>	<p>CONTRACTOR STATUS:</p> <p><input type="checkbox"/> For Profit <input checked="" type="checkbox"/> Municipality, Code: 300100000- <input type="checkbox"/> Tribal Nation <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Not-for-Profit</p> <p>Charities Registration Number:</p> <p>Exemption Status/Code: Government</p> <p><input type="checkbox"/> Sectarian Entity</p>

Contract Number: # C027046

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>CURRENT CONTRACT TERM: From: 08/01/2013 To: 07/31/2018</p> <p>CURRENT CONTRACT PERIOD: From: 08/01/2013 To: 07/31/2018</p> <p>AMENDED TERM: From: 08/01/2013 To: 01/31/2019</p> <p>AMENDED PERIOD: From: 08/01/2013 To: 01/31/2019</p>	<p>CONTRACT FUNDING AMOUNT <i>(Multi-year - enter total projected amount of the contract; Fixed Term/Simplified Renewal - enter current period amount):</i></p> <p>CURRENT: 189,435.00</p> <p>AMENDED: 208,378.50</p> <p>FUNDING SOURCE(S)</p> <p><input checked="" type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> Other</p>
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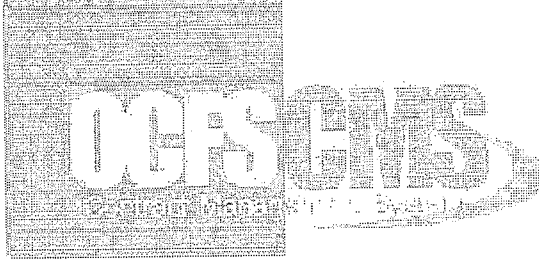
FOR MULTI-YEAR AGREEMENTS ONLY - CONTRACT PERIOD AND FUNDING AMOUNT:
(Out years represent projected funding amounts)

#	CURRENT PERIOD	CURRENT AMOUNT	AMENDED PERIOD	AMENDED AMOUNT
1	See Attachment B Summary			
2				
3				
4				
5				

ATTACHMENTS PART OF THIS AGREEMENT:

- Attachment A-1
- Attachment B - Budget
- Attachment C
- Attachment D
- Attachment MWBE

The parties hereto have executed this AGREEMENT as of the dates appearing under their signatures.

CONTRACTOR	STATE AGENCY Office of Children and Family Services
Electronically Signed by: 	Electronically Signed by: 
	<u>State Agency Certification</u> "In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of this contract."

I certify that I have personally verified the electronic signature of the Contractor to this Agreement.

BCM SIGNATURE: _____

Title: _____

Date: _____

ATTORNEY GENERAL'S SIGNATURE

Approved:
Thomas P. DiNapoli
State Comptroller

Title: _____

Title: _____

Date: _____

Date: _____

**STATE OF NEW YORK
MASTER CONTRACT FOR GRANTS**

This State of New York Master Contract for Grants (Master Contract) is hereby made by and between the State of New York acting by and through the applicable State Agency (State) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable; and

WHEREAS, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Master Contract;

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Master Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Master Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds \$50,000 (or \$85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

Budget Changes: An amendment that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than

five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

C. Order of Precedence:

In the event of a conflict among (i) the terms of the Master Contract (including any and all attachments and amendments) or (ii) between the terms of the Master Contract and the original request for proposal, the program application or other attachment that was completed and executed by the Contractor in connection with the Master Contract, the order of precedence is as follows:

1. Standard Terms and Conditions
2. Modifications to the Face Page
3. Modifications to Attachment A-2¹, Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2², Attachment B, Attachment C and Attachment D
6. Modification to Attachment A-1
7. Attachment A-1
8. Other attachments, including, but not limited to, the request for proposal or program application

D. Funding: Funding for the term of the Master Contract shall not exceed the amount specified as “Contract Funding Amount” on the Face Page or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Master Contract shall not exceed the applicable amounts specified in the applicable Attachment B form (Budget).

E. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Master Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Attachment C (Work Plan) in accordance with the provisions of the Master Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

F. Modifications: To modify the Attachments or Face Page, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Face Page and all the

¹ To the extent that the modifications to Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the modifications to Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

² To the extent that the terms of Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the Federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

appropriate attachments in conjunction therewith. In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Master Contract.

G. Governing Law: The Master Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

H. Severability: Any provision of the Master Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Master Contract shall attempt in good faith to reform the Master Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

I. Interpretation: The headings in the Master Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Master Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

J. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:

- a) by certified or registered United States mail, return receipt requested;
- b) by facsimile transmission;
- c) by personal delivery;
- d) by expedited delivery service; or
- e) by e-mail.

2. Notices to the State shall be addressed to the Program Office designated in Attachment A-1 (Program Specific Terms and Conditions).

3. Notices to the Contractor shall be addressed to the Contractor's designee as designated in Attachment A-1 (Program Specific Terms and Conditions).

4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.

5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the Master Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

K. Service of Process: In addition to the methods of service allowed by the State Civil Practice Law & Rules (CPLR), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.

L. Set-Off Rights: The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold, for the purposes of set-off, any moneys due to the Contractor under the Master Contract up to any amounts due and owing to the State with regard to the Master Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Master Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State Agency, its representatives, or OSC.

M. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Master Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Master Contract.

N. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Master Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of the State Agency and with the concurrence of OSC, where the original contract was subject to OSC's approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Master Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

O. Legal Action: No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under the Master Contract. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from any of the State of New York, the State Agency, or any county, or other local government entity. The term "regulatory action" shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

P. No Arbitration: Disputes involving the Master Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

Q. Secular Purpose: Services performed pursuant to the Master Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

R. Partisan Political Activity and Lobbying: Funds provided pursuant to the Master Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

S. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.³

T. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the Federal False Claims Act, the New York State False Claims Act, and whistleblower protections.

U. Non-Collusive Bidding: By submission of this bid, the Contractor and each person signing on behalf of the Contractor 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 his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor's behalf.

V. Federally Funded Grants and Requirements Mandated by Federal Laws: All of the Specific Federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto. To the extent

³As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

that the Master Contract is funded, in whole or part, with Federal funds or mandated by Federal laws, (i) the provisions of the Master Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto.

II. TERM, TERMINATION AND SUSPENSION

A. Term: The term of the Master Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

B. Renewal:

1. General Renewal: The Master Contract may consist of successive periods on the same terms and conditions, as specified within the Master Contract (a "Simplified Renewal Contract"). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Master Contract.

2. Renewal Notice to Not-for-Profit Contractors:

a) Pursuant to State Finance Law §179-t, if the Master Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State's intent to renew or not to renew the Master Contract no later than ninety (90) calendar days prior to the end of the term of the Master Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State's intent to renew or not to renew the Master Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Master Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State ("Unusual Circumstances"), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, "Unusual Circumstances" shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

b) Notification to the not-for-profit Contractor of the State's intent to not renew the Master Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Master Contract as required in this Section and State Finance Law §179-t, the Master Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Master Contract.

C. Termination:

1. Grounds:

- a) Mutual Consent: The Master Contract may be terminated at any time upon mutual written consent of the State and the Contractor.
- b) Cause: The State may terminate the Master Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Master Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Master Contract.
- c) Non-Responsibility: In accordance with the provisions of Sections IV(N)(6) and (7) herein, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Master Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.
- d) Convenience: The State may terminate the Master Contract in its sole discretion upon thirty (30) calendar days prior written notice.
- e) Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Master Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Master Contract, the Master Contract may be terminated or reduced at the State Agency's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Master Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Master Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.
- f) Force Majeure: The State may terminate or suspend its performance under the Master Contract immediately upon the occurrence of a "force majeure." For purposes of the Master Contract, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

2. Notice of Termination:

- a) Service of notice: Written notice of termination shall be sent by:
 - (i) personal messenger service; or

(ii) certified mail, return receipt requested and first class mail.

b) Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

(i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

(ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

3. *Effect of Notice and Termination on State's Payment Obligations:*

a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Master Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Master Contract after its termination date.

4. *Effect of Termination Based on Misuse or Conversion of State or Federal Property:*

Where the Master Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Master Contract for the purposes set forth herein, the State may, at its option, require:

a) the repayment to the State of any monies previously paid to the Contractor; or

b) the return of any real property or equipment purchased under the terms of the Master Contract; or

c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

D. Suspension: The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time

as the State issues a formal written notice authorizing a resumption of performance under the Master Contract.

III. PAYMENT AND REPORTING

A. Terms and Conditions:

1. In full consideration of contract services to be performed, the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.
2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Master Contract shall not be reimbursed.
3. Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Attachment D (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.
4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of the State Agency, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments.
5. If travel expenses are an approved expenditure under the Master Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.
6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.
7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, "Full Execution" shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).
2. Initial advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page. Subsequent advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the dates specified in Attachment D (Payment and Reporting Schedule).
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.
5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Master Contract in accordance with this Section and the applicable claiming schedule in Attachment D (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Attachment B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:
 - a) Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

b) Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

c) Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

d) Milestone/Performance Reimbursement:⁴ Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Attachment D (Payment and Reporting Schedule). The State Agency shall make milestone payments subject to the Contractor's satisfactory performance.

e) Fee for Service Reimbursement:⁵ Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement:⁶ Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement:⁷ The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule), and service

⁴ A milestone/ performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Master Contract effort.

⁵ Fee for Service is a rate established by the Contractor for a service or services rendered.

⁶ Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

⁷ Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

reports shall be used to determine funding levels appropriate to the next annual contract period.

h) Interim Reimbursement: The State Agency shall generate vouchers on an interim basis and at the amounts requested by the Contractor as set forth in Attachment D (Payment and Reporting Schedule).

i) Fifth Quarter Payments:⁸ Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.
4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.
5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.
6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.
7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded, in whole or in part, with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

D. Identifying Information and Privacy Notification:

⁸ Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number, (ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

2. The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. The personal information is requested by the purchasing unit of the State Agency contracting to purchase the goods or services or lease the real or personal property covered by the Master Contract. This information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York, 12236.

E. Refunds:

1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).

2. If at the end or termination of the Master Contract, there remains any unexpended balance of the monies advanced under the Master Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Master Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Master Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Attachment D (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Master Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.

2. Consistent with the selected reporting options in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a) If the Expenditure Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with one or more of the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Narrative/Qualitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Attachment C (Work Plan). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.

(ii) *Statistical/Quantitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)

(iii) *Expenditure Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.

(iv) *Final Report*: The Contractor shall submit a final report as required by the Master Contract, not later than the time period listed in Attachment D (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).

(v) *Consolidated Fiscal Report (CFR)*: The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).

b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

(i) *Progress Report*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.

(ii) *Final Progress Report*: Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

H. Notification of Significant Occurrences:

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Master Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Master Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. Notwithstanding the foregoing, the State and the Contractor

agree that if the Contractor is a New York State municipality, the Contractor shall be permitted to hold itself out, and claim, to be a subdivision of the State.

The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Master Contract, and all applicable Federal and State laws and regulations.

2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Master Contract and/or any subcontract entered into under the Master Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Master Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Master Contract, Contractor shall immediately notify the State.

B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Master Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Master Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of \$100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of \$100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Master Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Master Contract, and (3) that nothing contained in the subcontract, nor under the Master Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds \$100,000, the subcontractor shall submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, upon the execution of a subcontract, the Contractor shall provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

C. Use Of Material, Equipment, Or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Master Contract for any activity other than those provided for under the Master Contract, except with the State's prior written permission.

2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Master Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Master Contract.

D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.

a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.

b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Master Contract.

c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.

d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.

- e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.
 - f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.
 - g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.
2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Master Contract:
- a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.
 - b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.
3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).
4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.
5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. General:

- a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).
- b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may include, but not be limited to, original books of entry

(e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

(i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders, detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.

(iv) receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c) The OSC, AG and any other person or entity authorized to conduct an examination, as well as the State Agency or State Agencies involved in the Master Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d) The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e) Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

2. Cost Allocation:

a) For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b) For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

3. **Federal Funds:** For records and audit provisions governing Federal funds, please see Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

F. Confidentiality: The Contractor agrees that it shall use and maintain personally identifiable information relating to individuals who may receive services, and their families pursuant to the Master Contract, or any other information, data or records marked as, or reasonably deemed, confidential by the State (Confidential Information) only for the limited purposes of the Master Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

G. Publicity:

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Master Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b) State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first

submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Master Contract or procurement shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that State Agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by the State Agency and the results of such testing must be satisfactory to the State Agency before web content shall be considered a qualified deliverable under the Master Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Master Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. The Contractor shall be subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Master Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting State 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 State Agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting State 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 Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;
2. The Contractor 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;
3. The Contractor shall 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, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
4. At the request of the State, 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 shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and
5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor shall include the provisions of subclauses 1 – 5 of this Section (IV)(J), in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Master Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State 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 State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall 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.

K. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and

women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

1. If the total dollar amount of the Master Contract is greater than \$1 million, the Omnibus Procurement Act of 1992 requires that by signing the Master Contract, the Contractor certifies the following:

a) The Contractor has made reasonable efforts to encourage the participation of State business enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

c) The Contractor agrees to make reasonable efforts to provide notification to State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of the Master Contract and agrees to cooperate with the State in these efforts.

L. Workers' Compensation Benefits:

1. In accordance with Section 142 of the State Finance Law, the Master Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of the Master Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to the State Agency staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;

2. any debts owed for UI contributions, interest, and/or penalties;

3. the history and results of any audit or investigation; and
4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Master Contract.

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may obtain a paper form from the OSC prior to execution of the Master Contract. The Contractor further covenants and represents that as of the date of execution of the Master Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.
2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.
3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.
4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:
 - a) to require updates or clarifications to the Questionnaire upon written request;
 - b) to inquire about information included in or required information omitted from the Questionnaire;
 - c) to require the Contractor to provide such information to the State within a reasonable timeframe; and
 - d) to require as a condition precedent to entering into the Master Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and
 - e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Master Contract, the Contractor agrees

to comply with any such additional conditions that have been made a part of the Master Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Master Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Master Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:

- a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or
- b) the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish the State Agency with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Master Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Master Contract.

P. Consultant Disclosure Law:⁹ If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

Q. Wage and Hours Provisions: If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the

⁹ Not applicable to not-for-profit entities.

prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

ATTACHMENT A-1
PROGRAM SPECIFIC TERMS AND CONDITIONS FOR ALL
NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES (OCFS)
CONTRACTS

(06-2018)

A) AGENCY SPECIFIC TERMS AND CONDITIONS

1. PERSONNEL

- a. It is the policy of OCFS to encourage the employment of qualified applicants for, or recipients of, public assistance by both public organizations and private enterprises who are under contractual agreement to OCFS for the provision of goods and services. Contractor will be expected to make best efforts in this area.
- b. The Contractor agrees to identify, in writing, the person(s) who will be responsible for directing the work to be done under this CONTRACT. No change or substitution of such responsible person(s) will be made without prior approval in writing from OCFS, to the degree that such change or substitution is within the reasonable control of the Contractor.

2. GENERAL TERMS AND CONDITIONS

- a. The Contractor agrees to comply in all respects with the provisions of this CONTRACT and the attachments thereto. The Contractor specifically agrees to perform services according to the objectives, tasks, work plan and staffing plan contained in the ATTACHMENTS. Any modifications to the tasks or workplan contained in Attachment C must be mutually agreed to by both parties in writing before the additional or modified tasks or workplan shall commence.
- b. In providing these services, the Contractor hereby agrees to be responsible for designing and operating these services, and otherwise performing, so as to maximize Federal financial participation to OCFS under the Federal Social Security Act, where applicable.
- c. If funds from this CONTRACT will be used to pay any costs associated with the provision of legal services of any sort, the following shall apply:
 - Opinions prepared by consultant law firms construing the statutes or Constitution of the State of New York do not constitute the view of the State unless the prior written approval of the Attorney General is obtained. Requests for said approval shall be submitted to the Solicitor General, Division of the Appeals and Opinions Bureau, Department of Law, The Capitol, Albany, New York 12224.
 - The Contractor shall provide to OCFS in a format provided by OCFS such additional information concerning the provision of legal services as OCFS shall require.
- d. OCFS will designate a Contract Manager who shall have authority relating to the technical services and operational functions of this CONTRACT and activities completed or contemplated thereunder. The Contract Manager and those individuals designated by him/her in writing shall have the prerogative to make announced or unannounced on-site visits to the project. Project reports and issues of interpretation or direction relating to this CONTRACT shall be directed to the Contract Manager.
- e. If additional funds become available for the same purpose as described in the original procurement, OCFS reserves the right to modify the CONTRACT to provide additional funding to the Contractor for provision of additional mutually agreed upon services and/or to extend the provision of services under the CONTRACT. This additional funding can be provided within an existing period, or in conjunction with a change in the original term. Any changes in the amount or changes in period and amount are subject to the approval of OCFS and the Office of the State Comptroller (OSC).
- f. Contractor may not submit claims in an amount in excess of funds lawfully available for payment of amounts due to the Contractor under the Master Contract for any one year of the contract without the written permission of OCFS.

OCFS reserves the right to deny claims submitted by the Contractor in an amount in excess of funds lawfully available for payment of amounts due to the Contractor under the Master Contract for any one year of the contract.

Contractor acknowledges and agrees that allowable claims submitted by the Contractor under the Master Contract are subject to the continued availability of funding, and Contractor acknowledges and agrees that it may not be reimbursed by OCFS or the State of New York for claims if funds for payment of amounts due to the Contractor under the Master Contract have become unavailable. In that instance, Contractor acknowledges and agrees that the Contractor will have no cause of action against OCFS or the State of New York based on the failure to pay such claims.

For purposes of this section the term "funds lawfully available for payment" includes but is not limited to grants, annual appropriations and allocations available pursuant to State or federal law.

- g. All organizations that receive Federal and/or New York State financial assistance under social service programs are prohibited from discriminating against beneficiaries or prospective beneficiaries of the social service programs on the basis of religion or religious belief. Accordingly, organizations, in providing services supported in whole or in part with Federal and/or New York State financial assistance, and in their outreach activities related to such services, are not allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

Organizations that engage in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) must perform such activities and offer such services outside of programs that are supported with direct Federal and/or New York State financial assistance (including through prime awards or sub-awards), separately in time or location from any such programs or services supported with direct Federal and/or New York State financial assistance, and participation in any such explicitly religious activities must be voluntary for the beneficiaries of the social service program supported with such Federal and/or New York State financial assistance.

- h. The Contractor ensures that the grounds, structures, buildings and furnishings at the program site(s) used under this CONTRACT are maintained in good repair and free from any danger to health or safety and that any building or structure used for program services complies with all applicable zoning, building, health, sanitary, and fire codes.

3. CONFIDENTIALITY AND PROTECTION OF HUMAN SUBJECTS

- a. The Contractor agrees to safeguard the confidentiality of financial and client information relating to individuals and their families who may receive services in the course of this project. The Contractor shall maintain the confidentiality of all such financial and client information with regard to services provided under this CONTRACT in conformity with the provisions of applicable State and Federal laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this CONTRACT.
- b. Any contractor who will provide goods and/or services to a residential facility or program operated by OCFS agrees to require all of its employees and volunteers who will have the potential for regular and substantial contact with youth in the care or custody of OCFS to sign the Confidentiality Non-Disclosure Agreement and Contractor Employee and Volunteer Background Certification before any such employees and volunteers are permitted access to youth in the care or custody of OCFS and/or any financial and/or client identifiable information concerning such youth. Additionally, OCFS will require a database check of the Staff Exclusion List (SEL) maintained by the Justice Center for People with Special Needs (Justice Center) and of the Statewide Central Register of Child Abuse and Maltreatment (SCR) of each employee and volunteer of the contractor who has the potential for regular and substantial contact with children in the care or custody of OCFS. Any other contractor whose employees and volunteers will have access to financial and/or client identifiable information concerning youth in the care or custody of OCFS agrees to require all such employees and volunteers to sign the Confidentiality Non-Disclosure Agreement before any such employees and volunteers are permitted access to any financial and/or client identifiable information concerning such youth.

4. PUBLICATIONS AND COPYRIGHTS

- a. OCFS and the State of New York expressly reserve the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish, distribute or otherwise use, in perpetuity, any and all copyrighted or copyrightable material resulting from this CONTRACT or activity supported by this CONTRACT. All publications by the Contractor covered by this CONTRACT shall expressly acknowledge OCFS's right to such license.

- b. All of the license rights so reserved to OCFS and the State of New York under this paragraph are equally reserved to the United States Department of Health and Human Services and subject to the provisions on copyrights contained in 45 CFR 92 if the CONTRACT is federally funded.
- c. The Contractor agrees that at the completion of any scientific or statistical study, report or analysis prepared pursuant to this CONTRACT, it will provide to OCFS at no additional cost a copy of any and all data supporting the scientific or statistical study, report or analysis, together with the name(s) and business address(es) of the principal(s) producing the scientific or statistical study, report or analysis. The Contractor agrees and acknowledges the right of OCFS, subject to applicable confidentiality restrictions, to release the name(s) and business address(es) of the principal(s) producing the scientific or statistical study, report or analysis, together with a copy of the scientific or statistical study, report or analysis and all data supporting the scientific or statistical study, report or analysis.

5. PATENTS AND INVENTIONS

The Contractor agrees that any and all inventions, conceived or first actually reduced to practice in the course of, or under this CONTRACT, or with monies supplied pursuant to this CONTRACT, shall be promptly and fully reported to OCFS. Determination as to ownership and/or disposition of rights to such inventions, including whether a patent application shall be filed, and if so, the manner of obtaining, administering and disposing of rights under any patent application or patent which may be issued, shall be made pursuant to all applicable law and regulations.

6. TERMINATION

To the extent permitted by law, this CONTRACT shall be deemed in the sole discretion of OCFS terminated immediately upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligation by OCFS to the Contractor.

7. FISCAL SANCTION

In accordance with the OCFS Fiscal Sanction policy, Contractors may be placed on fiscal sanction when OCFS identifies any of the following issues:

- The Contractor has received an Advance, overpayment or other funds under this or another CONTRACT that has not been refunded to OCFS within the established timeframe;
- An OCFS, OSC, or other audit identifies significant fiscal irregularities and/or that funds are due to OCFS;
- The Contractor has not provided satisfactory services as required under the terms of this CONTRACT;
- The Contractor has not provided fiscal or program reports as required under the terms of this CONTRACT;
- A local, State or federal prosecutorial or investigative agency identifies possible criminal activity, or significant fiscal or programmatic irregularities on the part of the Contractor;
- The Contractor is not in compliance with State or federal statutes or regulations, or applicable OCFS guidelines, policies and/or procedures; or
- Unsafe physical conditions exist at a program site operated by the Contractor and funded under this CONTRACT with OCFS.

Once the Contractor has been placed on Fiscal Sanction, payments on all open contracts and any new awards, amendments or CONTRACT renewals will not be processed until the issues have been satisfactorily resolved. The Contractor will be notified in advance of any proposed Fiscal Sanction and will be provided a timeframe within which the issues must be resolved in order to avoid a Fiscal Sanction. Issues that are not resolved within the timeframe established by OCFS may be referred to the Attorney General (AG) for collection or legal action. If a CONTRACT is referred to the AG a collection fee will be added to the amount owed. In addition, interest will be due on any amount not paid in accordance with the timeframes established by the AG. The contractor will remain on Fiscal Sanction until the amount owed, including any collection fee and interest, is paid.

8. REFUNDS

In the event that the contractor must make a refund to the Office for contract related activities (repayment of an advance, an audit disallowance, or for any other reason), payment must be made in the form of a check or money order payable to "New York State Office of Children and Family Services". The contractor must include with the payment a brief explanation of why the refund is being made and reference the contract number. Refund payments must be submitted to:

New York State Office of Children and Family Services

Attention: Contract Cash Receipts
Bureau of Contract Management
Capital View Office Park
52 Washington Street, South Building, Room 202
Rensselaer, New York 12144

9. PROCUREMENT LOBBYING LAW

The Contractor will comply with all New York State and OCFS procedures relative to the permissible contacts and disclosure of contacts as required by State Finance Law Sections 139-j and 139-k and OCFS procedures and will affirmatively certify that all information provided pursuant to those provisions is complete, true and accurate. This certification is included in the Offerer's Certification and Affirmation of Understanding and CONTRACT pursuant to State Finance Law Sections 139-j and 139-k.

OCFS reserves the right to terminate this CONTRACT if the Offerer's Certification filed by the Contractor in accordance with the New York State Finance Law Section 139-k was intentionally false or intentionally incomplete. Upon such a determination by the OCFS, OCFS may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this CONTRACT. Nothing herein shall preclude or otherwise limit OCFS's right to terminate this contact as otherwise set forth in the applicable provisions of this CONTRACT.

10. REQUIRED REPORTS – CONTRACTS FOR CONSULTING SERVICES

If consulting services (including services for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services) are provided, the Contractor must submit on or before May 15th of each year for the annual period ending March 31st, Form AC-3272-S New York State Consultant Services – Contractor's Annual Employment Report. This form must report information for all employees who provided services under the CONTRACT whether employed by the Contractor or a subcontractor. This form will be available for public inspection and copying under the Freedom of Information Law with any individual employee names and social security numbers redacted.

Contractors can obtain this form from their Contract Manager or through the Internet at the following site:
<http://www.osc.state.ny.us/agencies/forms/ac3272s.doc>

The Contractor must submit a completed Form AC-3272-S New York State Consultant Services – Contractor's Annual Employment Report to each of the following addresses:

New York State Office of Children and Family Services
Bureau of Contract Management
52 Washington Street, South Building, Room 202
Rensselaer, New York 12144

New York State Office of the State Comptroller
Bureau of Contracts
110 State Street, 11th Floor
Albany, New York 12236
Attn: Consultant Reporting

New York State Department of Civil Service
Alfred E. Smith Office Building
8th Floor Counsel's Office
Albany, New York 12239

11. IRAN DIVESTMENT ACT

By entering into this CONTRACT, Contractor certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012" list ("Prohibited Entities List") posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such CONTRACT any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this CONTRACT, it must provide the same certification at the time the CONTRACT is renewed or extended. Contractor also agrees that any proposed Assignee of the CONTRACT will be required to certify that it is not on the Prohibited Entities List before OCFS may approve a request for Assignment of CONTRACT.

During the term of the CONTRACT, should OCFS receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, OCFS will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then OCFS shall take such action as may be appropriate and provided for by law, rule, or CONTRACT, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

OCFS reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension, or assignment of the CONTRACT, and to pursue a responsibility review with Contractor should it appear on the Prohibited Entities List hereafter.

12. ADDITIONAL ASSURANCES

- a. Expectation of Insured: The Contractor, if a municipal corporation, represents that it is a self-insured entity. If a not-for-profit corporation or entity other than a self-insured municipal corporation, the Contractor agrees to obtain and maintain in effect a general policy of liability insurance in an appropriate amount. The Contractor agrees that it will require any and all Subcontractors with whom it subcontracts pursuant to this CONTRACT to obtain and maintain a general policy of liability insurance in an appropriate amount.
- b. Notwithstanding the provisions of Article 14 of this CONTRACT, to the extent the contractor provides health care and treatment or professional consultation to residents of facilities operated by OCFS, in conformance with Executive Law §522 the provisions of paragraphs A, B and C of Article 14 (Article 14 A., B. and C.) shall not apply. In such cases, the provisions of Public Officers Law §17, to the extent provided by Executive Law §522, shall apply instead.

13. EXECUTIVE ORDER NUMBER 38

Executive Order Number 38 sets Limits on State-Funded Administrative Costs & Executive Compensation. Contracts, payment requests and reporting must comply with the regulations promulgated pursuant to this Executive Order. The Order can be found at the following website address:

<http://executiveorder38.ny.gov/>

LEGAL NOTICE: Based upon the April 8, 2014 decision in Agencies for Children's Therapy Services, Inc. v. New York State Department of Health, et al. ("ACTS"), covered providers conducting business in Nassau County need not file Executive Order 38 disclosures. For purposes of this notice, "conducting business" means having a place of business within Nassau County, providing program services or administrative services involving the use or receipt of State funds or State-authorized payments within Nassau County, or otherwise conducting business within Nassau County in relation to which executive compensation is paid. Please note that the ACTS decision is under appeal. Those affected by the ACTS' decision should periodically check the EO 38 website for updates regarding any changes to this notice.

14. MINORITY AND WOMEN-OWNED BUSINESS (M/WBE)

Pursuant to New York State Executive Law Article 15-A, OCFS recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified Minority and Women-Owned Business Enterprises (M/WBE) and Equal Employment Opportunities (EEO) for minority group members and women in the performance of OCFS contracts. Accordingly, information regarding OCFS' target goals for M/WBE participation in contracting activities as well as guidelines for Prime Contractor responsibilities pursuant to this law are outlined in the Attachment MWBE entitled "Participation by Minority and Women-Owned Business Enterprises: Requirements and Procedures". Included in this document are links to the forms and instructions required as a part of this program.

15. SERVICE-DISABLED VETERAN-OWNED BUSINESS (SDVOB)

The Service-Disabled Veteran-Owned Business Act, signed into law by Governor Andrew M. Cuomo on May 12, 2014, allows eligible Veteran business owners to become certified as a New York State Service-Disabled Veteran-Owned Business (SDVOB) in order to increase the participation of such businesses in New York State's contracting opportunities. The SDVOB Act, which is codified under Article 17-B of the Executive Law, acknowledges that SDVOBs strongly contribute to the economies of the State and the nation. Therefore, and consistent with its Master Goal Plan, OCFS strongly encourages vendors who contract with OCFS to consider the utilization of certified SDVOBs, that are responsible and responsive, for at least six percent (6%) of discretionary non-personnel service spending in the fulfillment of the requirements of their contracts with OCFS. Such partnering may include utilizing certified SDVOBs as subcontractors, suppliers, protégés, or in other supporting roles to the maximum extent practical, and consistent with the legal requirements of the State Finance Law and the Executive Law. Certified SDVOBs may be readily identified through the directory of certified businesses at: <https://ogs.ny.gov/Veterans/>

For additional information relating to the use of certified SDVOBs in contract performance, and participation by SDVOBs with respect to State Contracts through Set Asides, please refer to the following:

- [Use of Service-Disabled Veteran-Owned Business Enterprises in Contract Performance](#)
- [Participation by Service-Disabled Veterans with Respect to State Contracts Through Set Asides](#)
- <https://ogs.ny.gov/Veterans/>

Please note that bidders/proposers must continue to utilize MWBEs, as discussed above in paragraph 14, consistent with current State law.

16. OUTSIDE COUNSEL

Opinions prepared by consultant law firms construing the statutes or Constitution of the State of New York do not constitute the view of the State unless the prior written approval of the Attorney General is obtained. Requests for said approval shall be submitted to the Solicitor General, Division of the Appeals and Opinions Bureau, Department of Law, and Contract Approval Unit, Civil Recoveries Bureau, NYS Department of Law, The Capitol, Albany, NY 12224.

17. BOARD OF DIRECTORS COMPOSITION

The number of directors constituting the entire Board must not be less than three. The Office of Children and Family Services advises a manageable number of members of the Board of Directors to promote maximum working effectiveness. Of this number, the Office of Children and Family Services recommends that the Board include individuals with experience in, or access to expertise in, legal matters, financial management, real estate knowledge, administrative capability and "consumer" representation.

18. EXECUTIVE ORDER NUMBER 177

Executive Order Number 177, signed on February 3, 2018, by Governor Andrew M. Cuomo directs New York State agencies and authorities not to enter into any contracts with entities that have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected basis. The Contractor must provide the EO 177 Certification statement found at the following website address: [New York State Office of Children and Family Services \(OCFS\)](#) prior to any contract award or renewal of any contract by OCFS.

Attachment A1 B - CFRT

B) Program Specific Terms and Conditions

Child Fatality Review Teams (CFRTs)

New York State Social Services Law allows Child Fatality Review Teams (CFRT's) to be established at a local or regional level with the approval of the New York State Office of Children and Family Services (OCFS). CFRT's bring community agencies together to systemically share information on child death events and identify risk factors in these deaths. The goal of the CFRT is to identify how and why children die in order to support local actions to prevent deaths within communities.

OCFS administers the CFRT Program. CFRT's are a multidisciplinary group of professionals with responsibility for the review of child deaths. Local or regional CFRT's approved by OCFS are authorized to review the death of any child whose care and custody or custody and guardianship has been transferred to an authorized agency, any child for whom child protective services has an open case, any child for whom the local department of social services has an open preventive services case, and any child named in a report made to the New York Statewide Central Register of Child Abuse and Maltreatment (SCR) involving the death of the child. A fatality review team may also investigate any unexplained or unexpected death of any child under the age of eighteen.

Required members of the CFRT must include:

- Child Protective Services (CPS)
- County Department of Health (or local health commissioner or director or a designee if there is no county health department)
- Office of the Medical Examiner (ME), (or if the locality does not have an ME, then the Office of the Coroner)
- District Attorney's Office
- Office of the County Attorney
- Local Law Enforcement
- Emergency Medical Services (EMS)
- New York State Police
- individual pediatricians or other medical professional with expertise in child abuse and maltreatment or forensic pediatrics

Representatives from other agencies and professions may also contribute to the team. These agencies may include representatives from local departments of social services, mental health agencies, domestic violence agencies, substance abuse programs, hospitals, local schools and family court.

Regional CFRT's must clearly demonstrate support of the required agencies or disciplines of the identified counties participating.

Attachment A1 B - CFRT

Contractor is required to:

1. Develop a mission statement and goals.
2. Develop interagency protocols and confidentiality procedures within the parameters of the OCFS CFRT Guidelines and Protocol Template.
3. Become an approved OCFS CFRT within three months of contract approval.
4. Implement the case review process and collect data through the NCCDR Case Reporting System.
5. Collaborate and support efforts of the NYS DOH's "Prevention of Child Morbidity and Mortality in New York State: Keeping New York Kids Alive" Initiative.

Priority deaths for review shall include: Any child whose death has been reported to the SCR as allegedly occurring as the result of abuse or maltreatment; Any child for whom child protective services has an open case; Any child for whom the local department of social services has an open preventive services case; The death of any child whose care and custody or custody and guardianship has been transferred to an authorized agency. (This may include children up to age 21 years old). Infant sleep related deaths, particularly bed sharing; Injury related deaths where the cause(s) is unclear.

Allowable and non-allowable costs are indicated in the Child Fatality Review Team Request for Proposals, if applicable. The OCFS Program Manager will have final decision making responsibility on all allowable and non-allowable costs in the case of a discrepancy. The following parameters will apply:

Allowable costs include but are not limited to:

- staffing, fringe benefits
- project equipment and furniture
- computers and appropriate software for the project
- supplies, mailing and printing costs of project related flyers/pamphlets, educational materials
- staff travel costs at the approved State travel rate. State rates are available at the following web address: <http://www.osc.state.ny.us/agencies/travel/travel.htm>
- telephone installation and monthly billing
- consultants retained by a formal agreement
- rental of space
- renovations to CFRT sites to improve the operation of the team. Acceptable renovations may include alterations to the structure of a building or space to be used by the CFRT to improve the case review, investigation or services to non-offending family members.
- training
- A maximum of 10% federally approved Indirect Cost Rate with appropriate documentation

Non-allowable costs include but are not limited to:

- capital development or acquisition costs such as purchasing buildings and major refurbishing / renovation of buildings,
- supplanting current positions or responsibilities of CFRT members
- out of state travel, unless approved by the OCFS Program Manager
- interest costs, including cost incurred to borrow funds,

Attachment A1 B - CFRT

- costs of organized fund raising,
- cost for preparation of continuation agreements or contracts and other proposal development costs,
- overtime costs for team members,
- costs for dues, incorporation fees, conferences or meetings unless in connection with the project
- lunch or meals for CFRT members.

Designated Payment Office

All reports and claims for reimbursement, or reports and claims to account for the advance payment, should be sent to:

N.Y.S. Office of Children & Family Services
Division of Child Welfare and Community Services
52 Washington Street, North Building, Room 336 North
Rensselaer, New York 12144-2796

Attachment B Summary

BUDGET

Year 1 Based on the attached Year 1 Budget	\$37,887.00
Year 2 Projected	\$37,887.00
Year 3 Projected	\$37,887.00
Year 4 Projected	\$37,887.00
Year 5 Projected	\$56,830.50
Total Contract Amount	\$208,378.50

'The Year 2-5 amounts listed above represent estimates made at the time of the initial award and are not funding commitments. The actual amount for each year will be announced annually based on funding availability.'

Attachment B Budget

A-1 Summary of Personnel Costs

Position/Title	Annual Salary	% of Time	Salary times % of Time**	Local Share	OCFS Grant Funds	Total Cost
Since original Contract, \$ 1,284 has been moved to Equip.			\$0		\$131,371	\$131,371
Director of Services (6 month extention)			\$0		\$6,172	\$6,172
Grade A Supervisor (6 month extention)			\$0		\$6,050	\$6,050
Principal Clerk			\$0		\$1,926	\$1,926
			\$0			\$0
			\$0			\$0
			\$0			\$0
			\$0			\$0
			\$0			\$0
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			\$0			\$0
			\$0			\$0
			\$0			\$0
			\$0			\$0
1. Personnel Total				\$0	\$145,519	\$145,519
2. Fringe Benefits Total	<i>Enter Rate:</i>				\$61,575	\$61,575
3. Total Personal Services Costs			0	\$0	\$207,094	\$207,094

** The figures in the column are for comparison purposes only. It may not exactly equal the Total Cost figure.

A-1 Personal Narrative

Budget Narrative: Attach a description of the role/responsibility of each person included above.
Resumes of key project staff should be included as an addendum to the Project Narrative Section.

1. Title:

Enter Role/Responsibility Below

2. Title:

Enter Role/Responsibility Below

Salary for CFRT Coordinator increased to 18 months instead of 12 months to cover extension for 6 months

3. Title:

Enter Role/Responsibility Below

Salary for CFRT Assistant Coordinator increased to 18 months instead of 12 months to cover extension for 6 months

4. Title:

Enter Role/Responsibility Below

Salary for CFRT Support Staff increased to 18 months instead of 12 months to cover extension for 6 months

5. Title:

Enter Role/Responsibility Below

6. Title:

Enter Role/Responsibility Below

7. Title:

Enter Role/Responsibility Below

8. Title:

Enter Role/Responsibility Below

9. Title:

Enter Role/Responsibility Below

10. Title:

Enter Role/Responsibility Below

11. Title:
Enter Role/Responsibility Below

12. Title:
Enter Role/Responsibility Below

13. Title:
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14. Title:
Enter Role/Responsibility Below

15. Title:
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16. Title:
Enter Role/Responsibility Below

17. Title:
Enter Role/Responsibility Below

18. Title:
Enter Role/Responsibility Below

19. Title:
Enter Role/Responsibility Below

20. Title:
Enter Role/Responsibility Below

B4. Contractual/Consultant

Item	Local Share	OCFS Funds	Total Costs
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
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			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
Total Contractual/Consultant Costs	\$0	\$0	\$0

Enter Budget Narrative Below:

B6. Equipment

Item	Local Share	OCFS Funds	Total Costs
Since original Contract \$ 1,284 has been moved from Personnel Category		\$1,284	\$1,284
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
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			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
Total Equipment Costs	\$0	\$1,284	\$1,284

Enter Budget Narrative Below:

B7. Supply Costs

Item	Local Share	OCFS Funds	Total Costs
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
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			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
Total Supply Costs	\$0	\$0	\$0

Enter Budget Narrative Below:

B8. Other Expenses

Item	Local Share	OCFS Funds	Total Costs
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
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			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
			\$0
Total Other Expenses	\$0	\$0	\$0

Enter Budget Narrative Below:

Contractor Name:	Oneida County
Period of Budget:	8/1/2018 - 1/31/2019
Contract Number:	C027046

**ATTACHMENT B
BUDGET SUMMARY**

(Rev. 1/8/02)

The purpose of this form is to document the budget for the proposed project. Indicate the amount of funds being requested to support the proposed project under "OCFS Funds."

Expense Category	Local Share/ Local Match (if applicable)	OCFS Funds	Total Project Cost
1	2	3	4
A. Personal Services			
1. Project Staff Salaries	\$0	\$145,519	\$145,519
2. Fringe Benefits		\$61,575	\$61,575
3. Total (Lines 1 + 2)	\$0	\$207,094	\$207,094
B. Non-Personal Services			
4. Contractual/Consultant	\$0	\$0	\$0
5. Travel/Per Diem	\$0	\$0	\$0
6. Equipment	\$0	\$1,284	\$1,284
7. Supplies	\$0	\$0	\$0
8. Other Expenses	\$0	\$0	\$0
9. Total (Total Lines 4 to 8)	\$0	\$1,284	\$1,284
C. Project Total (Lines 3 + 9)	\$0	\$208,378	\$208,378

Local Match (if required) Use *calculation below
--

*Local Match Calculation = % of matching funds (if required in the RFP or contract agreement) X OCFS grant award.

Total costs entered for each budget category above must reflect totals from attached Budget Sections.

Local Share refers to all funds other than this grant award, including in-kind contributions to support the project as described in the narrative section of the application. The type and amount of in-kind contributions should be specifically identified under the appropriate Budget Section. The total amount of the in-kind portion of Local Share should be entered in parenthesis next to Local Share Project Total space.

OCFS Funds are the funds you are requesting through this application.

Total Cost refers to the combined Local Share and Grant Funds for this project.

Budget Narrative: Complete the narrative section for each part of the budget. Instructions are included on the following application budget pages.

Note: All items in the Budget must be consistent with the goals and objectives of the Project Narrative. Additional budget narrative pages may be attached as necessary.

* Total Project Cost must agree with Total Anticipated Revenue form as submitted with this application.

Local Share/Match Breakdown

	Source	Amount
A. Cash Donations		
B. In-Kind Donations		
C. Volunteers/Intern		
D. Fees for Service		
E. Unrestricted Cash or Fund Balance		
F. Grants:		
- Other grants supporting this project		
Amount of OCFS Funds		
Non-OCFS Funds supporting this project		
Total		\$0

Itemize amounts of assured revenue, potentially available funds, and estimated income from in-kind contributions to support this project.

Cash Donations should be calculated on the basis of what the applicant organization can realistically be expected to raise during the program year; attach a description of fund raising efforts.

In-Kind Donations refers to equipment, furnishings and other non-personal expenses that are donated to support the function of this project.

Volunteers (another type of in-kind contribution) refers to project personnel who donate their time to the functioning of this project. Volunteer job descriptions and timecards should be kept to substantiate this line item.

Unrestricted Cash or Fund Balance Unrestricted funds include all revenues that are not specifically restricted as to their use. Unrestricted funds include income from dues, publication sales, advertising sales, conference fees, mailing label sales, interest income from unrestricted funds, fees obtained in the execution of externally funded projects, and contributions.

Fees for Services refers primarily to income received from clients directly. In addition, any income received by the applicant organization for reimbursable activities funded by this contract such as counseling, training, speaking engagements, etc., must be listed here.

Grants refers not only to the amount being requested under this grant but also to monies received (or applied for) from another funding source for activities related to this contract, e.g., state, federal, local. Each grant must be listed separately under Section F.

Attachment C Work Plan

Oneida Child Fatality Review Team Project
Work Plan for August 1, 2018- January 31,2019

Mission of Child Fatality Review Team:

The Oneida County Child Fatality Review Team is a multi-disciplinary, multi-agency panel given the responsibility of reviewing child deaths under the age of 18 in Oneida County. Their mission is to prevent deaths through the identification and evaluation of risk factors related to child fatalities. The case reviews allow the deaths to be examined from all perspectives: medical, social, and environmental, which provides a comprehensive look at each child's death. This enables the team to recommend actions that could lead to systemic changes, public awareness and advocacy. The reviews are not conducted to find fault or to place blame but as a conduit to learn how we can protect our children.

Purpose of Child Fatality Review Team:

The CFRT purpose is to prevent future deaths and promote child safety through a comprehensive and multi-disciplinary examination as to the cause, manner and circumstance of a death. This examination allows team members to identify trends, unsafe practices, and gaps in investigative standards or policies.

The CFRT is a valuable asset as it identifies the fatalities in the County, compiles information and inputs the data into the State Data Base (NCCDR Case Reporting System). The CFRT also has the opportunity to share their ideas and observations during their quarterly reviews with the Office of Children and Family Services representatives. Valuable feedback as to what other county teams are identifying assists our team in the areas of strategic planning regarding specific trends. It also provides us with information as to how we compare with other communities within the state and trends as a whole. CFRT's have an option to draft and finalize a Child Fatality Review Report regarding fatalities that occur in Oneida County. Oneida County CFRT has chosen not to write fatality reports and /or recommendations to the local district of Social Services.

Oneida County: Demographic, Economic and Social Characteristics:

The Oneida County CFRT gets a number of community agencies and individuals together to review fatalities in the County. Utilizing a diverse team is important as they are able to receive input, ideas, and opinions that represent the community. Team members include but are not limited to law enforcement, pediatricians, emergency response services, child protective workers etc... which enables the team to cross great ground in the networking area. This team, as a whole, is able to hone in on trends from cases that have a vast range from accidents, child abuse, neglect, sickness, wrongful death etc. Once you bring together the knowledge and expertise of all team members they can really make a difference. For example, fatalities due to co-sleeping could be assumed to be more prevalent in a particular population such as the Burmese due to their customs and culture. In reality, fatalities from co-sleeping or unsafe sleep practices cross all ethnical boundaries and is not targeted to one particular population. This means safe sleep awareness needs to be brought to the community forefront as a whole. The CFRT has the ability to make the public aware of unsafe practices and ultimately provide safety to children in the community.

Oneida County is made up of the following demographics:

Oneida County is located in central New York State and contains 1,257 square miles. The seat of Oneida County is Utica, but County Court and major offices also are found in Rome. The County consists of an urban-rural mixture composed of 26 towns, 19 villages and 3 cities. In 2010, the two largest cities, Utica and Rome, had a combined population of almost 96,000. This represents about 41% of the county's total population (234,878). Another 27,000 people live in villages and other areas immediately surrounding these cities. All told, more than 50% of the county's population live either in urban city type settings or incorporated villages generally surrounding these cities. The remaining population lives in more rural settings both north and south of the Mohawk Valley corridor.

The total population in 2010 was 234,878. During the 1990s, the County lost 6% of its population, dropping from 250,836 in 1990 to 235,469 people in the year 2000. In the last decade, the population appears to have stabilized, with a change of less than a quarter of a percent. The median age of the county's population jumped from 33.8 in 1990 to 38.2 in 2000. This reflected the loss of many younger segments of the population due to the impacts of the closure of Griffiss Air Force Base in the mid-nineties. In 2010, the median age of Oneida County now stands at 40.9* years of age. In the year 2010, approximately 5.7% of the population was under the age of five; 21.9% were less than age eighteen; 73.5% were age twenty-one or older; and 16.3% were age sixty-five or older. These are somewhat similar to the 2000 age distributions.

According to the 2010 Census, about 97% of the county population identifies itself as being of a single racial background. Among the total population, 87.1% see themselves as being white only; 6.3% as being black or African American only; and 3.1% as being of some other singular racial composition. In 2000, nearly 7,500 persons were identified as being of Hispanic ethnicity in the County. In 2010, this number has jumped significantly to nearly 11,000 people. Hispanics now represent almost 5% of the population and are the single largest growing ethnic group in the region. Within the cities of Utica and Rome, 75.1%** and 85.6%** of their respective populations identified themselves as white only; 13.8%** and 7.7%** , respectively, said that they were of black or African American racial composition only; and 4.1% and 1.7%** , respectively, claimed to be of some other singular racial component. Almost one in ten city residents in Utica (9 %**) said that they were Hispanic, while in Rome 5.6%** claimed Hispanic origin.

A large number of refugees have settled in Oneida County. The Mohawk Valley Resource Center for Refugees (MVRRCR) has helped resettle over 13,000 refugees in NYS since 1973. Of these refugees, some 35% have settled in Oneida County; of those who remained in Oneida County, most live in the City of Utica. The majority of refugees (73%) came from Bosnia, Vietnam, Ukraine, Serbia, Burma and Belarus. MVRRCR more recent influx of refugees is from the war-torn Southern Somalia in Africa. Language barriers and cultural differences have made it difficult for many of these culturally and linguistically diverse residents to integrate into our local communities.

Among the 104,180 housing units in Oneida County, about two thirds are within urban settings. Of the almost 93,028 total occupied housing units, 66.7% are owner occupied, with the remainder occupied by renters. The median self-identified housing value in the Census 2010 in Oneida County was \$106,500*. The median self-reported rent was \$665*.

Of the 111,442* persons age 16 or older in the civilian labor force, 101,190* persons were employed according to the Census 2000. This reflects an unemployment rate of 9.0%* in 2010. Employment within various industries includes: construction (5,170)*; manufacturing (10,917)*; wholesale trade (1,851)*; retail trade (10,960)*; transportation and warehousing (3,570)*; finance and insurance (8,128)*; educational, health care and social assistance (29,838)*; and, arts, entertainment, accommodation and food services (7,750)*.

Higher education facilities in the County include: Hamilton College, Clinton (about 1,800 students); Mohawk Valley Community College, Utica and Rome campuses (around 7,000 full and part time students combined); Utica College, Utica (approximately 2,500 undergraduate and 500 graduate students); SUNY Institute of Technology, Marcy (about 2,800 students); and the Utica School of Commerce, Utica (approximately 250 students).

Health care facilities include: Faxton-St Luke's Hospitals in Utica, St. Elizabeth's Hospital in Utica, and the Rome Hospital in Rome.

(Source: HOCCPP 2011)

All data (except for enrollments) from the 2010 Census unless noted below:

*Data comes from the 2010 ACS 1-Year Estimates

** Data comes from the 2007-2009 ACS 3-Year Estimates

Target Population:

The CFRT target population includes two types of cases.

Section 20 cases involve children, under the age of 18 years, either named in a State Central Registry Report, children receiving child protective or preventive services and / or children who died while in the care and custody or guardianship of the local district of Social Services.

Non-Section 20 cases involve children, under the age of 18 years, which have succumbed to an unexpected and unexplained death.

All residents of Oneida County, as a whole, are the target population. Child fatalities are not discriminate and cross all population types and are not limited to one grouping of people. This is another reason why our community can benefit from the Child Fatality Review Team's work. The focus of the CFRT is to identify areas of needed change in order to reduce future deaths. This benefits the community, as a whole, through community awareness. The team has, and continues to use, various forms of public awareness which includes but is not limited to: media, brochures, posters and flyers which has allowed us to reach a large audience with our message. The information is distributed and posted at various community agencies, schools, child care centers, hospitals, doctor's offices, furniture stores, just to name a few.

Outcomes/Performance Targets:

(See attached forms for Outcome / Performance Targets)

Proposed Project Description:

Oneida County Child Fatality Review Team meets quarterly and reviews both Section 20 and Non-Section 20 cases involving childhood deaths. Oneida County plans on achieving all Performance Targets and Goals outlined in this proposal. Oneida County will also re-focus its efforts on safe sleep practices and coordinate a public awareness campaign and trainings due to the number of fatalities it has experienced in this area. There is an identified need to educate the community in regards to these preventable deaths.

CFRT is comprised of individuals from a variety of disciplines which include: a CFRT Coordinator and CFRT Assistant Coordinator whose role is not only to help develop a committed and motivated team but has team meeting, prevention undertakings and team continuity responsibilities; as well as a Social Welfare Examiner that provides assistance for information gathering, data base input and documentation that needs to be submitted to OCFS. The team membership includes required representatives from the Oneida County Child Protective Services component, New York State Office of Children and Family Services, Oneida County Health Department, Medical Examiner, Oneida County District Attorney's Office, Utica Police, Rome Police, New York State Police, Department of Emergency Services and Pediatricians. We also have non-required members from the Local Department of Social Services, Mental Health, Domestic Violence, Substance Abuse, Hospitals, and Schools who also participate on an on-going or case by case basis. The team is currently in the process of recruiting additional members from Probation, the YWCA and Community Action which will provide the team with a more expansive and diversified approach in promoting child safety. It is understood, by all members, that any information obtained, reviewed and discussed at a CFRT meeting is confidential. To ensure the privacy of the families we discuss, prior to every meeting, all members present are required to sign the Confidentiality Agreement and Attendance Verification Form to re-enforce the importance of this. A copy of the Oneida County Confidentiality Agreement and Attendance Verification Form is attached for your reference.

The CFRT identifies child deaths in Oneida County and is tasked with acquiring detailed information pertaining to that death from various sources. The process usually begins with the death certificate and /or autopsy report

and can lead to additional informational gathering activities from such entities as: medical examiners, law enforcement, hospital staff, pediatricians etc. Cases cannot be reviewed until all on-going investigations that pertain to the case are completed. Information is shared at the quarterly CFRT meeting and a detailed and comprehensive discussion ensues as to the cause of death and the circumstances that led to the death. This can sometimes lead to more questions, as well as, potential strategies that could have prevented the outcome. CFRT members will discuss whether this death could have been prevented and, what if any, actions could have been taken. If the information can benefit the community, the team will focus on ways of disseminating the information through different venues.

Oneida County CFRT Protocols are also attached for your review.

Project Staff:

If awarded this grant, it will enhance and maintain the daily functions needed to run the Oneida County Child Fatality Review Team and support the following staff: Child Fatality Coordinator, Child Fatality Assistant Coordinator and Social Welfare Examiner for Oneida County Child Fatality Review Team.

The Oneida County CFRT Coordinator is designated to be Deborah Neal that works for the Oneida County Department of Social Services as the Director of Services. She has the expertise, knowledge and experience to lead the CFRT. The Oneida County CFRT Assistant Coordinator is designated to be Donna Pellegrino, who also works for the Oneida County Department of Social Services as the Grade A Supervisor of Services. In utilizing these two individuals, we believe it provides the team with a vast amount of expertise and knowledge needed to make the Oneida County CFRT a success. They will provide oversight and lead the CFRT meetings. Their duties would include but are limited to:

- Coordination of quarterly meetings, facilitation of trainings, data collection and community outreach based on needs assessment, including notification of all agencies as described in the CFRT protocol.
- Responsible and accountable for personal and professional growth ensuring that team members will participate in professional development programs such as in-service trainings, formal education courses and quarterly meetings held by the CFRT.
- Maintenance of records and reports.
- Participation in the review and revision of policies, procedures and protocols.
- Participation in periodic team meetings for case review and evaluation of project effectiveness.
- Responsible and accountable for the acquisition, analysis and dissemination of knowledge and skills in their respective area of expertise.

The Principal Clerk will support the CFRT Coordinators by performing needed tasks, such as but not limited to: preparing packets and information for meetings, contacting team members, taking meeting minutes, gathering an entering statistics and information into NCCDR and various other duties assigned by the CFRT Coordinator and Assistant CFRT Coordinator.

Budget Plan:

Oneida County proposal requested funds fall 100% into the program costs category. The proposed CFRT funding provides for Personnel cost support of the Oneida County CFRT Coordinator (approximately 119 hours), Oneida County CFRT Assistant Coordinator (140 hours) and a Principal Clerk (113 hours) to assist the CFRT Coordinators with office support, reports and documentation for Oneida County CFRT.

The Oneida County CFRT is looking forward to the continued partnership with OCFS providing enhancement of Child Death Review.

Application Cover Page – Agreement

I. Incorporated Agency Name:	Oneida County			
II. Project Title:	Oneida County CFRT Program			
III. New York State Vendor ID:	1000002595			
IV. Amount of OCFS Funds Requested:	\$208,378.50			
V. Proposed Dates of Project:	August 1, 2013 - January 31, 2019			
VI. Address: (Include Street, City, State, Zip Code)	Mailing	Payment	Site	Agency Record
Oneida County Department of Social Services 800 Park Avenue, Utica New York 13501	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
VII. Federal Tax Identification Number or Municipality Code:	300100000000			
VIII. Does the Business Entity have a Data Universal Numbering System (DUNS) Number? If yes, what is the DUNS Number?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		DUNS Number: 075814186	
IX. Is the Business Entity a: (a) For Profit entity; <u>and</u> (b) A New York Certified Minority Owned Business Enterprise (MBE), Women Owned Business Enterprise (WBE), New York State Small Business or a Federally Certified Disadvantaged Business Enterprise (DBE)?	<input type="checkbox"/> Yes		<input checked="" type="checkbox"/> No	
If yes, please specify the type of entity:	<input type="checkbox"/> Minority Owned Business Enterprise (MBE) <input type="checkbox"/> Women Owned Business Enterprise (WBE) <input type="checkbox"/> Disadvantaged Business Enterprise (DBE) <input type="checkbox"/> New York State Small Business			
X. Is the Business Entity a: (a) Not-For-Profit entity; <u>and</u> (b) A Minority Community-Based Organization (MCBO)	<input type="checkbox"/> Yes		<input checked="" type="checkbox"/> No	
XI. Charities Registration Number. (If exempt, enter reason for exemption)	Exemption Status/Code: Government			
XII. Has the Business Entity filed all required periodic or annual written reports with the Office of the Attorney General's Charities Bureau?	<input type="checkbox"/> Yes		<input checked="" type="checkbox"/> No	

XIII. Congressional/Legislative District Information: (If Known)					
Federal Congressional District(s): 24th					
State Assembly District(s): 22nd					
State Senate District(s): 22nd					
XIV. County:				Oneida County	
XV. Contact Person(s):					
Key Contacts	Name	Address	Telephone & E-Mail Address **	Authorized to Sign Contracts	Authorized to Sign Vouchers
Board Chairperson	Gerald J. Fiorini	800 Park Ave Utica, New York 13501	315-798-5900 gfiorini@ocgov.net		
Chief Administrative Officer ¹	County Executive Anthony Picente, Jr.	800 Park Ave Utica, New York 13501	315-798-5800 apicente@ocgov.net	✓	
Contract Contact	Vicky Conover Dir. of Admin. Serv.	800 Park Ave Utica, New York 13501	315-798-5084 Vconover@ocgov.net		
Chief Fiscal Officer	Joseph Timpano County Comptroller	800 Park Ave Utica, New York 13501	315-798-5780 Jtimpano@ocgov.net		
Department of Social Services	Colleen Fahy-Box Interim Commissioner	800 Park Ave Utica, New York 13501	315-798-5733 cbbox@ocgov.net	✓	✓
Department of Social Services	Tamatha Stoetzner Dir. of Admin. Serv.	800 Park Ave Utica, New York 13501	315-798-5260 Tstoetzner@ocgov.net		✓
**An E-mail address is required. If you do not have a personal e-mail address, please supply your Organization's shared e-mail address.					

¹ The Chief Administrative Officer is defined as the person who is responsible for the contractor's overall administration, eg. Executive Director, County Executive, or Agency Commissioner

Attachment D

**ATTACHMENT D - CFRT
PAYMENT AND REPORTING SCHEDULE**

I. PAYMENT PROVISIONS

In full consideration of contract services to be performed the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page hereof. All payments shall be in accordance with the budget contained in the applicable Attachment B form (Budget), which is attached hereto.

A. Advance Payment, Initial Payment and Recoupment Language (if applicable):

1. The State Agency will make an advance payment to the Contractor, during the initial period, in the amount of Forty _____ percent (40 %) the budget as set forth in the most recently approved applicable Attachment B form (Budget).
2. The State Agency will make an initial payment to the Contractor in the amount of _____ percent (____ %) of the annual budget as set forth in the most recently approved applicable Attached B form (Budget). This payment will be no later than _____ days from the beginning of the budget period.
3. Scheduled advance payments shall be due in accordance with an approved payment schedule as follows:

Period: _____	Amount: _____	Due Date: _____
Period: _____	Amount: _____	Due Date: _____
Period: _____	Amount: _____	Due Date: _____
Period: _____	Amount: _____	Due Date: _____

4. Recoupment of any advance payment(s) or initial payment(s) shall be recovered by crediting (30 %) of subsequent claims and such claims will be reduced until the advance is fully recovered within the contract period.

B. Interim and/or Final Claims for Reimbursement

Claiming Schedule (*select applicable frequency*):

- Quarterly Reimbursement
Due date 30 days after the end of the quarter. _____
- Monthly Reimbursement
Due date _____
- Biannual Reimbursement
Due date _____

- Fee for Service Reimbursement
Due date _____
- Rate Based Reimbursement
Due date _____
- Fifth Quarter Reimbursement
Due date _____
- Milestone/Performance Reimbursement
Due date/Frequency _____
- Scheduled Reimbursement
Due date/Frequency _____
- Interim Reimbursement as Requested by Contractor _____

II. REPORTING PROVISIONS

A. Expenditure-Based Reports *(select the applicable report type):*

Narrative/Qualitative Report

The Contractor will submit, on a quarterly basis, not later than 30 days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract

Statistical/Quantitative Report

The Contractor will submit, on a quarterly basis, not later than 30 days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.

Expenditure Report

The Contractor will submit, on a quarterly basis, not later than 30 days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.

Final Report

The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than 30 days after the end of the contract period.

Consolidated Fiscal Report (CFR)¹

The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1

¹ The Consolidated Fiscal Reporting System is a standardized electronic reporting method accepted by Office of Alcoholism & Substance Services, Office of Mental Health, Office of Persons with Developmental Disabilities and the State Education Department, consisting of schedules which, in different combinations, capture financial information for budgets, quarterly and/or mid-year claims, an annual cost report, and a final claim. The CFR, which must be submitted annually, is both a year-end cost report and a year-end claiming document.

of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

B. Progress-Based Reports

1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (see Table 1 below for the annual schedule).

2. Final Progress Report

Final scheduled payment will not be due until _____ days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is _____. The agency shall complete its audit and notify vendor of the results no later than _____. The Contractor shall submit the report not later than _____ days from the end of the contract.

C. Other Reports

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table 1.

III. SPECIAL PAYMENT AND REPORTING PROVISIONS

Attachment MWBE

Participation by Minority and Women-Owned Business Enterprises: Requirements and Procedures

Revised January 2018

I. General Provisions

- A. The Office of Children and Family Services (“OCFS”) is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”) for all State contracts, as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OCFS, to fully comply and cooperate with OCFS in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State-certified minority and women-owned business enterprises (“MWBEs”). The Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) and other applicable federal, state, and local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds, assessment of liquidated damages pursuant to Section VII of this Attachment and such other remedies are available to OCFS pursuant to the Contract and applicable law.

II. Contract Goals

- A. For purposes of this Contract, OCFS hereby establishes an overall goal of **30%** for MWBE participation, **15%** for New York State-certified minority-owned business enterprise (“MBE”) participation and **15%** for New York State-certified women-owned business enterprise (“WBE”) participation (collectively, “MWBE Contract Goals”) based on the current availability of MBEs and WBEs.
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of MWBEs at the following internet address: <https://ny.newnycontracts.com>.

Additionally, the Contractor is encouraged to contact the Division of Minority and Women's Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on the Contract.

- C. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract.
- D. The Contractor must document "good faith efforts," pursuant to 5 NYCRR § 142.8, to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. Such documentation shall include, but not necessarily be limited to:
 - 1. Evidence of outreach to MWBEs;
 - 2. Any responses by MWBEs to the Contractor's outreach;
 - 3. Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;
 - 4. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by OCFS with MWBEs; and,
 - 5. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE participation.

III. Equal Employment Opportunity ("EEO")

OCFS-3460 – MWBE – Equal Employment Opportunity Policy Statement

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.
- B. In performing the Contract, the Contractor shall:
 - 1. Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 - 2. The Contractor shall submit an EEO policy statement to OCFS within seventy-two (72) hours after the date of the notice by OCFS to award the Contract to the Contractor.

Completed forms should be sent via email to mwbeinfo@ocfs.ny.gov. **Please do not upload MWBE forms to the Contract Management System (CMS).**

3. If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, OCFS may require the Contractor or subcontractor to adopt a model statement (see Form – OCFS-3460 – MWBE – Equal Employment Opportunity Policy Statement).
4. The Contractor's EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the 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.
 - c. 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.
 - d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. OCFS-4629 – Project Staffing Plan Form

This section applies to OCFS contracts with a total value in excess of \$250,000 only.

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the staffing plan form and submit it as part of their bid or proposal or within a reasonable time, as directed by OCFS. Completed forms should be sent via email to mwbeinfo@ocfs.ny.gov. **Please do not upload MWBE forms to the Contract Management System (CMS).**

D. OCFS-2171 – Workforce Utilization Report Form

This section applies to non-grant contracts only.

1. The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by OCFS on a quarterly basis during the term of the Contract. The completed Workforce Utilization Report must be submitted via email to eeo@ocfs.ny.gov no later than 10 days following the end of each quarter during the term of the Contract.
 2. Separate forms shall be completed by the Contractor and any subcontractors.
 3. Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.
- E. The Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

OCFS-4361 – MWBE Utilization Plan Form

- A. The Contractor represents and warrants that the Contractor has submitted an MWBE Utilization Plan, or shall submit an MWBE Utilization Plan at such time as shall be required by OCFS, through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the Contractor may arrange to provide such evidence via a non-electronic method to OCFS, either prior to, or at the time of, the execution of the contract.
- B. The Contractor agrees to adhere to such MWBE Utilization Plan in the performance of the Contract.
- C. The Contractor further agrees that failure to submit and/or adhere to such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, OCFS shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is non-responsive.

V. Waivers

- A. If the Contractor, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the Contractor may submit a request for a waiver through a non-electronic method provided by OCFS (OCFS-4442 – MWBE Request for Waiver Form). Such waiver request must be supported by evidence of the Contractor's good faith efforts to achieve the maximum feasible MWBE participation towards the applicable MWBE Contract Goals. If the documentation included with the waiver request is complete, OCFS shall evaluate the request and issue a written notice of approval or denial within twenty (20) business days of receipt.
- B. If OCFS, upon review of the MWBE Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section VI, or any other relevant information, determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals, and no waiver has been issued in regards to such non-compliance, OCFS may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

OCFS-4441 – MWBE Quarterly Report Form

The Contractor is required to submit a quarterly MWBE Contractor Compliance Report through the NYSCS, provided, however, that the Contractor may arrange to provide such report via a non-electronic method to OCFS by the 10th day following the end of each quarter during the term of the Contract. Completed forms should be sent via email to mwbeinfo@ocfs.ny.gov. **Please do not upload MWBE forms to the Contract Management System (CMS).**

VII. Liquidated Damages - MWBE Participation

- A. Where OCFS determines that the Contractor is not in compliance with the requirements of this Attachment and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to OCFS liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by OCFS, the Contractor shall

pay such liquidated damages to OCFS within sixty (60) days after they are assessed. Provided, however, that if the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.



ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES
County Office Building 800 Park Avenue Utica, NY 13501
Telephone (315) 798-5733 Fax (315) 798-5218

June 13, 2018

Honorable Anthony J. Picente Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

FN 20 18-249

Anthony J. Picente Jr.
Anthony J. Picente, Jr.
County Executive

HEALTH & HUMAN SERVICES

Date 6-28-18

Dear Mr. Picente:

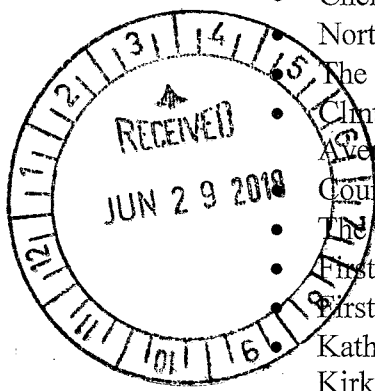
WAYS & MEANS

I am submitting the following sample contract for the twenty-three (23) Purchase of Service Agreements for Day Care Services for review and approval by the Board of Legislators.

I am respectfully requesting that this sample contract for Day Care Centers be approved for all twenty-three (23) Agreements under one resolution, however if there are concerns with any individual Day Care Center, that Day Care Center may be omitted and processed separately.

The following is a list of the twenty-three (23) Day Care Centers:

- Celebration Children's Center of Canastota Inc., 206 Wilson Ave, Canastota, NY
- Chenango Nursery School Inc., 59 W. Kendrick Ave., Hamilton, NY
- North Utica Senior Citizens Recreation Center Inc., 50 Riverside Drive, Utica, NY
- The Children's Center at Morrisville State College, Inc., Bailey Hall, Morrisville, NY
- Clinton Child Care Center, Inc. DBA Clinton Early Learning Center, 75 Chenango Avenue, Clinton, NY
- Court Street Children's Center, Inc., 415 Court Street, Utica, NY
- The Eastern Star, Day Care Center Inc., 8280 St. RT 69, Oriskany, NY
- First Assembly of God, 9427 Maynard Drive, Marcy, New York 13403
- First Nursery School of Utica, 1605 Genesee Street, Utica, NY
- Kathleen M. Lloyd DBA Half Pint Academy Child Care Center, 7829 State Route 5, Kirkland, NY
- Herkimer County Community College aka HCCC Child Care Center, 100 Reservoir Road, Herkimer, New York 13350
- The Jewish Community Federation of the Mohawk Valley, NY, Inc., 2310 Oneida Street, Utica, NY
- Junior Junction, Inc., 2215 Genesee Street, Utica, NY
- Learning Care Group, Inc. a/k/a Childtime Learning Center, 5112 Taft Rd. Liverpool, New York 13088




- Griffiss Federal Employee Child Care Group, Inc. a/k/a Little Learners on Campus, 808 Cypress Street, Rome, New York 13440
- Trustees of the Masonic Hall and Asylum Fund a/k/a Masonic Care Community of New York, 2150 Bleecker Street, Utica, NY
- The Neighborhood Center Inc., 615 Mary Street, Utica, NY
- Oneida Area Day Care Center, Inc., 447 Sayles Street, Oneida, NY
- Young Men's Christian Association and Woman's Community Center of Rome, New York a/k/a YMCA of the Greater Tri-Valley, Inc., 301 Bloomfield Street, Rome, NY
- Sitrin Child Day Care Facility, Inc., 3 Kavod Road, New Hartford, NY
- Thea Bowman House Inc., 731 Lafayette Street, Utica, NY
- GCFA a/k/a United Methodist Church a/k/a Trinity United Methodist Church a/k/a Treehouse After School Program, 8595 Westmoreland Road, Whitesboro, NY
- Upstate Cerebral Palsy, Inc., a/k/a United Cerebral Palsy, Inc. a/k/a United Cerebral Palsy, Inc. - New Discoveries Day Care, 1020 Mary Street, Utica, NY

Day Care Services insure children are well cared for while eligible families participate in required work participation activities, training and/or employment.

The term of these Agreements is October 1, 2018 through September 30, 2021, and payment is based on Day Care "Market Rates" as determined by New York State Office of Children and Family Services. In 2017 the Department spent \$7,556,171.00 to pay Day Care service providers with an approximate local share of 18.20% or \$ 1,375,223.12. These agreements are for three years with an estimated cost of \$ 22,668,513.00 for Day Care service providers and a local share of \$ 4,125,669.37.

I am respectfully requesting that this matter be forwarded to the Board of Legislators for their review and approval. Thank you for your consideration.

Sincerely,


 Colleen Fahy-Box
 Commissioner
 CFB/vlc
 Attachment

Oneida Co. Department Social Services

Competing Proposal _____

Only Respondent _____

Sole Source RFP _____

Other X

Oneida County Board of Legislators

Contract Summary

Name of Proposing Organization:

Various Day Care Agencies
(See Attached Summary for list of 23 Day Care Agencies)

Title of Activity or Services: Day Care Services for children

Proposed Dates of Operations: October 1, 2018 through September 30, 2021

Client Population/Number to be Served: Children in need of Day Care Services up to age 12.

SUMMARY STATEMENTS

1). Narrative Description of Proposed Services

Provide Day Care Services to eligible families.

2). Program/Service Objectives and Outcomes -

To provide safe quality Day Care Services to eligible low income employed families or public assistance recipients involved in approved educational, vocational job search or work experience activities.

3). Program Design and Staffing Level - N/A

Total Funding Requested:

Rates are determined by New York State Office of Children and Family Services; current rates are attached.

Oneida County Dept. Funding Recommendation: Account #:A6055.495

Mandated or Non-Mandated: Mandated Service

Proposed Funding Source (Federal \$ /State \$ / County \$): (Per Year)

Federal	63.80% =	\$4,820,837.10
State	18.00% =	\$1,360,110.78
County	18.20% =	\$1,375,223.12

Cost Per Client Served: Attached summary lists all 23 Day Care Centers being approved. The Department paid a total of \$ 7,556,171.00 for this service in 2017.

Past performance Served:

O.C. Department Staff Comments: The Department is satisfied with the performance of all Day Care Centers and the Department contracts with a number of Centers to ensure the availability of services when needed.

(Group 3 Counties)
 LEGALLY-EXEMPT GROUP CHILD CARE

	AGE OF CHILD			
	<u>Under 1 ½</u>	<u>1 1/2 – 2</u>	<u>3 - 5</u>	<u>6-12</u>
WEEKLY	\$0	\$0	\$135	\$128
DAILY	\$0	\$0	\$29	\$28
PART-DAY	\$0	\$0	\$19	\$19
HOURLY	\$0	\$0	\$5.63	\$5.25

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
 STANDARD RATE

	AGE OF CHILD			
	<u>Under 2</u>	<u>2</u>	<u>3 - 5</u>	<u>6-12</u>
WEEKLY	\$98	\$98	\$98	\$93
DAILY	\$21	\$20	\$20	\$20
PART-DAY	\$14	\$13	\$13	\$13
HOURLY	\$3.25	\$3.25	\$3.25	\$3.25

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE
 ENHANCED RATE

	AGE OF CHILD			
	<u>Under 2</u>	<u>2</u>	<u>3 - 5</u>	<u>6-12</u>
WEEKLY	\$105	\$105	\$105	\$100
DAILY	\$23	\$21	\$21	\$21
PART-DAY	\$15	\$14	\$14	\$14
HOURLY	\$3.50	\$3.50	\$3.50	\$3.50

THIS AGREEMENT, is hereby entered into by and between Oneida County, a municipal corporation organized and existing under the laws of the State of New York with its principal offices at 800 Park Avenue, Utica, New York 13501, through its Department of Social Services (hereinafter collectively called the "Department"), and *name of daycare provider*, a *type of business organization,* located at *address* (hereinafter called the "Contractor").

WITNESSETH:

WHEREAS, the Commissioner of Social Services of the County of Oneida (hereinafter called the "Commissioner"), is authorized under Section 410 et seq. of the Social Services Law ("SSL") to provide Day Care Services at public expense for children residing in her territory who are eligible pursuant to criteria established by the New York State Office of Children and Family Services; and

WHEREAS, the Commissioner may provide such Day Care Services either directly or through the purchase of such care from a private non-profit corporation or association pursuant to Section 410 (3)(a) of said SSL. The Day Care Provider may also be a private proprietor provided the conditions set forth pursuant to Section 410(3)(a) are met; and

WHEREAS, the Contractor is authorized to provide Day Care Services by reason of holding a valid permit pursuant to Section 390 of the SSL; and

WHEREAS, Day Care Services are included in the latest Comprehensive Annual Social Services program Plan for New York State including the Oneida County Social Services District; and

WHEREAS, the fee paid for Day Care Services is the Day Care "Market Rate" as determined by the New York State Office of Children and Family Services, and the Department feels that the amount of funds to be paid to the Contractor is reasonable and necessary to assure quality of services; and

WHEREAS, it is economically and organizationally feasible for the Department to contract with the Contractor for performance of Day Care Services;

NOW THEREFORE, it is mutually agreed between the Department and the Contractor as follows:

I. Term

- a. The terms and conditions of this Agreement shall commence on October 1, 2018 and terminate on September 30, 2021.
- b. The option to renew this Agreement is at the sole discretion of the Department and notice shall be provided to the Contractor prior to the end of the term of this Agreement.

II. Termination

- a. This Agreement may be terminated by either party upon 30 days written notice to the other party.

III. Responsibilities of the Contractor

- a. If and so long as funds are available therefore, the Contractor shall furnish services to persons determined by the Department to be eligible therefore, in accordance with standards prescribed by the Department and by the New York State Office of Children and Family Services.
- b. The Contractor shall provide quality day care to children between ____ and ____ years of age for a portion of the day and less than 24 hours, outside their home in accordance with New York State and Federal standards for day care ("Day Care Services").
- c. The Contractor shall provide the Day Care Services at its place(s) of business as specified in Attachment A. There are no other locations where the Contractor will provide Day Care Services.
- d. A child receiving Day Care Services from the Contractor must be at least _____ years of age, and no more than ____ years of age since this is the basis for issuance of the Contractor's permit.
- e. The Contractor shall furnish such Day Care Services in accordance with applicable requirements of law and shall cooperate with the departments, as may be required, so that the Department and the New York State Office of the Children and Family Services will be able to fulfill their function and responsibilities as the Single State Agency under Title XX and other applicable provisions of the Social Security Act and Social Services Law and be able to meet all the applicable requirements, both state and federal, pertaining thereto.
- f. The Contractor shall establish a system through which recipients may present grievances about the operation of the Day Care Services. The Contractor shall advise recipients of this right and will also advise applicants and recipients of their right to appeal.
- g. The Contractor, upon the request of the Department, shall participate in appeals and fair hearings as witnesses when necessary for a determination of the issues.

- h. The Contractor shall retain all fees collected from eligible individuals required to pay such fees and shall reduce its claim for payment by the amount of such fees determined by the Department to be due from such recipients. The collection of such fees is solely the responsibility of the Contractor.

IV. Responsibilities of the Department

- a. The Department shall be responsible for establishing the standards, policies, and procedures for determining the eligibility of persons for Day Care Services to be purchased by the Department and to be furnished by the Contractor. The Department shall retain basic responsibility for determining the eligibility of persons for Day Care Services.
- b. The Department shall notify applicants for or recipients of Day Care Services of their right to a fair hearing to appeal the denial, reduction or termination of Day Care Services, or failure to act upon a request for Day Care Services with reasonable promptness. The Department shall be responsible for establishing fair hearing procedures, holding fair hearings, and taking such steps as may be necessary to enforce the fair hearing's determinations and decisions. The Department shall provide the Contractor with copies of any decision issued by the Office of Temporary and Disability Assistance.

V. Insurance Requirements

- a. The Contractor shall purchase and maintain insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in the State of New York. The insurance carrier must have at least an A- (excellent) by A.M. Best.
 - i. Commercial General Liability (CGL) coverage with limits of insurance of not less than \$1,000,000 each occurrence and \$3,000,000 annual aggregate.
 - 1. CGL coverage shall be written on ISO Occurrence form CG 00 01 1001 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contracts, products, completed operations, and personal and advertising injury.
 - 2. Abuse and molestation coverage must be included.

3. The County, and any other parties required by the County, shall be included as additional insureds. Coverage for the additional insureds shall apply as primary and non-contributing insurance before any other insurance or self-insurance, including any deductible or self-insured retention, maintained by, or provided to, the additional insureds.
 - ii. Workers' Compensation and Employer's Liability
 1. Statutory limits apply.
 - iii. The Contractor shall procure and maintain insurance in force, for the duration of this Agreement, any additional types of coverage and limits of liability as determined by the Department.
- b. Waiver of subrogation: The Contractor waives all rights against the County and their agents, officers, directors and employees for recovery of damages to the extent these damages are covered by CGL or Workers' Compensation and Employer's Liability insurance maintained by the County of Oneida.
- c. Certificates of Insurance: Prior to the start of any work, the Contractor shall provide certificates of insurance to the County. Attached to each certificate of insurance shall be a copy of the Additional Insured Endorsement that is part of the Contractor's CGL policy. These certificates and the insurance policies required above shall contain a provision that coverage afforded under these policies shall not be canceled or allowed to expire until at least 30 days prior written notice has been given to the County.

VI. Indemnification

To the fullest extent permitted by applicable law, the Contractor shall indemnify and hold harmless, and at the Department's option, defend, the Department, and/or its officers, directors, members, agents, employees, contractors and other representatives, from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, liens, claims, damages, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage, economic damage, and claims brought by third parties for personal injury and/or property damage (collectively, "Damages"), incurred by the Department caused

by any negligent act or omission, or intentional misconduct of the Contractor, its officers, agents, employees (including the Contractor's Assistants or other authorized personnel) arising out of or in connection with the exercise by the Contractor or any of the Contractor's authorized personnel of the rights and privileges granted by or pursuant to this Agreement, except to the extent such Damages are caused by the sole negligence, unlawful act or omission, or intentional misconduct of the Department.

VII. Performance of Services

- a. The Contractor represents that the Contractor is duly licensed (as applicable) and has the qualifications, the specialized skill(s), the experience and the ability to properly perform the services. The Contractor shall use the Contractor's best efforts to perform the services such that the results are satisfactory to the Department. The Contractor shall be solely responsible for discussion with Day Care Services recipients to determine the location, method, details and means of performing the services, except where federal, state or local laws and regulations impose specific requirements on performance of the same.
- b. The Contractor may, at the Contractor's own expense, employ or engage the services of such employees, subcontractors and/or partners as Contractor deems necessary to perform the services (collectively, the "Assistants"). The Assistants are not and shall not be deemed employees of the Department, and the Department shall have no obligation to provide the Assistants with any salary or benefits. The Contractor shall be solely responsible and shall remain liable for the performance of the services by the Assistants in a manner satisfactory to the Department, and in compliance with any and all applicable federal, state or local laws and regulations. The Contractor shall expressly advise the Assistants of the terms of this Agreement.
- c. The Contractor acknowledges and agrees that the Contractor and its Assistants have no authority to enter into contracts that bind the Department or create obligations on the part of the Department without the prior written authorization of the Department.
- d. The Contractor shall inform the Department within twenty-four (24) hours if it is unable or unwilling to accept an assignment and/or perform services pursuant to this Agreement. The Contractor maintains the right to do so at any time, and the

Department maintains the right to contract with other individuals or entities to perform the same services.

VIII. Independent Contractor Status

- a. It is expressly agreed that the relationship of the Contractor and its Assistants to the Department shall be that of Independent Contractors. The Contractor's Assistants shall not be considered employees of the Department for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health insurance benefits. The Contractor, in accordance with its status as an Independent Contractor, covenants and agrees that its Assistants will conduct themselves in accordance with such status, that neither the Contractor, nor its Assistants, shall hold themselves out as, nor claim to be, officers or employees of the Department by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Department.
- b. The Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. The Contractor and the Department agree that the Contractor is free to undertake other work arrangements during the term of this Agreement, and may continue to make its services available to the public.
- c. The Contractor or its Assistants shall not be eligible for compensation from the Department due to
 - i. illness;
 - ii. absence due to normal vacation; and
 - iii. absence due to attendance at school or special training or a professional convention or meeting.
- d. The Contractor acknowledges and agrees that neither the Contractor, nor its Assistants, shall be eligible for any Department employee benefits, including retirement membership credits.
- e. The Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to the Contractor or its Assistants under this Agreement, and for compliance with all applicable labor and

employment requirements with respect to the Contractor's form of business organization, and with respect to the Assistants, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The Department shall not be responsible for withholding from the payments provided for services rendered for state or federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). The Contractor shall provide proof of workers' compensation insurance, where applicable, prior to execution of this Agreement.

- f. The Contractor shall indemnify and hold the Department harmless from all loss or liability incurred by the Department as a result of the Department not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's or its Assistants' Independent Contractor status, it is agreed that both the Department and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor shall comply with federal and state laws as supplemented in the Department of Labor regulations and any other regulations of the federal and state entities relating to such employment and Civil Rights requirements.

IX. Payment

- a. For the purpose of this Agreement, a unit of service shall be defined as the care of a child for one week, five full days of at least six (6) hours per day.
- b. The Department shall pay the Contractor per market rates as set by New York State for each unit of service provide pursuant to this Agreement. This rate per unit of service has been determined by the Department to be an amount reasonable and necessary to assure the quality of the Day Care Services.
- c. The Department shall pay the Contractor a negotiated rate for a child who receives Day Care Services on a part-time basis.
- d. The Contractor shall submit time sheets and request for payment either electronically or in written form to the Department.

- i. Electronic submissions shall be made using the New York State Office for Children and Family Services Child Care Time and Attendance System (CCTA). The Department shall verify the submission and authorize payment to the Contractor via the Benefits Issuance and Control System (BICS).
 - ii. Written time sheets shall be submitted directly to the Department for payment. Upon verification of the written time sheets, the Department shall authorize payment to the Contractor via the BICS.
- X. The Department shall not be responsible for any fee and all clients supplemented by Department funds shall not be required to pay a registration fee.
- XI. The Department shall pay the Contractor for a maximum of four (4) absentee days per month.

XII. Books, Records, and Reports

- a. The Contractor shall maintain financial books, records, and necessary supporting documents as required by the Department. The Contractor shall use accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of the services provided under this Agreement. The Contractor shall collect statistical data of a fiscal nature on a regular basis and make fiscal and statistical reports at times prescribed by and on forms furnished by the Department.
- b. All records relevant to this Agreement shall be subject at all reasonable times for inspection, review or audit by the Department or New York State personnel, as well as by federal personnel when federal funds are being utilized in making payments to the Contractor, in accordance with applicable federal and state requirements.
- c. The Contractor shall collect statistical data of a fiscal nature on a regular basis and make fiscal statistical reports at times prescribed by and on forms furnished by the Department in accordance with applicable federal and state requirements.
- d. The Contractor shall maintain program records required by the Department and agrees that a program and facilities review, including meetings with recipients of services, review of service records, review of service policy and procedural issuances, review of staffing ratios and job descriptions, and meetings with any staff directly or indirectly involved in the provision of Day Care Services may be conducted at a reasonable time by appropriate Department, state or federal

personnel and other persons duly authorized by the Department in accordance with applicable state and federal requirements.

- e. The Contractor shall retain all books, records and other documents relevant to this Agreement for six (6) years after the final payment. Federal and / or State auditors, and any person duly authorized by the Department shall have full access to and the right to examine any of said material during said period, in accordance with applicable federal and state requirements.
- f. The Contractor and the Department shall observe and require the observance of applicable federal and state requirements relating to confidentiality of records and information, and neither shall allow the examination of records or disclosure of information, except that examination of records by the Department as may be necessary to assure that the purpose of this Agreement will be effectuated, and also to otherwise comply with the Department's requirements and obligations under law will be allowed. In addition, the Department and the Contractor shall be bound by the provisions of 45 CFR 205.50, and all amendments thereof, and any other relevant provisions of the state service operation work plans and federal regulations.

XIII. Choice of Law / Venue

- a. If either party elects to commence litigation against the other in connection with any matter relating to or arising out of this Agreement, it shall do so in a New York State Court of competent jurisdiction sitting in Oneida County, New York or in the United States District Court for the Northern District of New York.
- b. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

XIV. Non-Assignment

- a. The Contractor shall not assign or subcontract any portion of this Agreement without the prior written approval of the Department (which shall be attached to this Agreement) and subject to such conditions and provisions as the Department may deem necessary. No such approval by the Department of any assignment or subcontract shall be deemed in any event or in any manner to provide for the incurrence of any obligation of the Department in addition to the total agreed upon amount to be paid under this Agreement.

XV. Miscellaneous

- a. The parties agree to renegotiate this Agreement in the event that the New York State Department of Health or the New York State Office of Children and Family Services issue new or revised requirements on the Department as a condition for receiving continued federal or state reimbursement.
- b. During the performance of this Agreement, the Contractor shall not, on the grounds of age, race, color, or national origin:
 - i. Deny an individual any services or other benefits provided under the program;
 - ii. Provide any service(s) or other benefits to an individual which are different, or are provided in a different manner, from those provided to others under the program;
 - iii. Subject an individual to segregation or separate treatment in any matter related to his or her receipt of any service(s) or other benefits provided under the program;
 - iv. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any services(s) or other benefits provided under the program;
 - v. Treat an individual differently from others in determining whether he or she satisfies any eligibility or other requirements or condition which individuals must meet in order to receive any aid, care, service(s), or other benefits provided under the program;
 - vi. Deny any individual an opportunity to participate in the program through the provision of services or otherwise, or will afford him or her an opportunity to do so which is different from that afforded others under the program.
- c. During the performance of this Agreement, the Contractor agrees as follows:
 - i. The Contractor shall not discriminate against any employee or applicant for employment because of age, race, creed, sex, color, or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination because of race, creed, sex, color or national origin. Such action shall include, but not be limited to

the following: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retaining, including apprenticeship and on-the-job training.

- ii. The Contractor shall send to each labor union or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice to be provided to the New York State Division of Human Rights, advising such labor union or representative of the Contractor's agreement under clauses i through vii (hereinafter called "non-discrimination clauses"). If the Contractor was directed to do so by the contracting agency as part of the bid or negotiation of this Agreement, the Contractor shall request such labor union or representative to furnish it with a written statement that such labor union or representative shall not discriminate because of age, race, creed, sex, color or national origin and that such labor union or representative either will affirmatively cooperate, within the limits of its legal and contractual authority, in the implementation of the policy and provisions of these non-discrimination clauses or that it consents and agrees that recruitment, employment and the terms and conditions of employment under this Agreement shall be in accordance with the purposes and provisions of these non-discrimination clauses. If such labor union or representative fails or refuses to comply with such a request that it furnish such a statement, the Contractor shall promptly notify the New York State Division of Human Rights of such failure or refusal.
- iii. The Contractor shall post and keep posted in conspicuous places, available to employees and applicants for employment, notices to be provided by the New York State Division of Human Rights setting forth the substance of the provisions of clauses i and ii and such provisions of the State's laws against discrimination as the New York State Commissioner of Human Rights shall determine.
- iv. The Contractor shall state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified

applicants will be afforded equal employment opportunities without discrimination because of age, race, creed, sex, color or national origin.

- v. The Contractor shall comply with the provisions of Sections 291-299 of the Executive Law and the Civil Rights Law, shall furnish all information and reports deemed necessary by the New York State Commissioner of Human Rights under these non-discrimination clauses and such section of the Executive Law, and will permit access to its books, records and accounts by the New York State Commissioner of Human Rights, the Attorney General, and the Industrial Commissioner for purposes of investigation to ascertain compliance with these non-discrimination clauses and such sections of the Executive Law and Civil Rights Law.
- vi. This Agreement may be forthwith canceled, terminated or suspended, in whole or in part, by the Department on the basis of a finding made by the New York State Commissioner of Human Rights that the Contractor has not complied with these non-discrimination clauses, and the Contractor may be declared ineligible for further contracts made by or on behalf of the State or a public authority or agency of the state, until it satisfies the New York State Commissioner of Human Rights that it has established and is carrying out a program in conformity with the provisions of these non-discrimination clauses. Such finding shall be made by the New York State Commissioner of Human Rights after conciliation efforts by the New York State Division of Human Rights have failed to achieve compliance with these non-discrimination clauses and after verified complaint has been filed with the New York State Division of Human Rights, notice thereof has been given to the Contractor and an opportunity has been afforded it to be heard publicly before the New York State Commissioner of Human Rights or its designee. Such sanctions may be imposed and remedies invoked independently of or in addition to sanctions and remedies otherwise provided by law.
- vii. The Contractor shall include the provisions of clauses i through vii in every subcontract or purchase order in such a manner that such provisions shall be binding upon each subcontractor or vendor as to operations to be performed within the State of New York. The Contractor shall take such

action in enforcing such provisions of such subcontract or purchase order as the Department may direct, including sanctions or remedies for non-compliance. If the Contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor shall promptly notify the Attorney General, requesting him or her to intervene and protect the interest of the State of New York.

- d. The Contractor agrees to be bound by the provisions of Section 103-a and 103-b of the General Municipal Law of the State of New York which provide in part: that upon the refusal of a person, when called before a grand jury, head of state department, temporary state commission or other state agency, the organized crime task force in the Department of Law, head of a city department, or other city agency which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with any public department, agency or officials of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract.
 - i. The Contractor, its director, and officers, and any firm partnership or corporation of which they are a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contract with any municipal corporation or fire district, or any public department, agency or official thereof, for goods, work or services, for a period of five (5) years after such refusal and;
 - ii. This Agreement and any and all other contracts made with any municipal corporation or any public department, agency or official thereof on or after the first day of July nineteen hundred and fifty-nine or with any fire district or any agency or official thereof on or after the first day of September, nineteen hundred sixty, by such person, any by any firm, partnership, or officer may be canceled or terminated by the Department of municipal corporation or fire district with incurring any penalty of damages on account

of such cancellation or termination, and any monies owed by the Department or municipal corporation or fire district for goods delivered or work done prior to the cancellation or termination shall be paid.

- iii. The undersigned, as an officer of the Contractor expressly warrants and represents that neither (s)he, nor any member, director or officer of the Contractor, prior to the date of execution of this Agreement, has been called before the grand jury, head of a state department, temporary state commission or other state agency which is empowered to compel the attendance of witnesses and examine them under oath to testify in an investigation concerning any transaction or contract had with the State of New York, any political subdivision thereof, a public authority or with any public department, agency or official of the State of New York or any political subdivision thereof, or of a public authority or of any fire district, and refused to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract.

XVI. Entire Agreement

- a. The terms of this Agreement, including any attachments, amendments, addendums or appendixes attached hereto, constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Agreement. By signing below, the parties agree and acknowledge that they have read, understood and agreed to all the terms contained in any addenda attached hereto including, but not limited to, Attachment A (Day Care Center Location Sites), Appendix A (New York State Conditions), Appendix B (Standard Clauses for all Oneida County Department of Social Services Contracts), the Standard Oneida County Conditions Addendum, and Oneida County Department of Social Services Contractor and Contract Staff Confidentiality and Non-Disclosure Agreement.
- b. No waiver, alterations or modifications of any provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

XVII. Advice of Counsel

Each party acknowledges that, in executing this Agreement, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Agreement.

In Witness Whereof, the parties have hereunto signed this Agreement on the day and year appearing opposite their respective signatures.

Date: _____

Oneida County: _____
Anthony J. Picente Jr., Oneida County Executive

Approved: _____
Maryangela Scalzo, Assistant County Attorney

Date: _____

Department: _____
Colleen Fahy-Box, Commissioner

Date: _____

Contractor: _____

Authorized Signature: _____

Print Authorized Name: _____

Title: _____

APPENDIX A
NEW YORK STATE CONDITIONS

The parties to the attached contract further agree to be bound by the following, which are hereby made a part of said contract.

- I. This contract may not be assigned by the contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent, in writing, of the State.
- II. This contract shall be deemed executory only to the extent of money available to the State for the performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond moneys available for the purpose thereof.
- III. The contractor specifically agrees, as required by Labor Law, Sections 220 and 220-d, as amended that:
 - (a) no laborer, workman or mechanic, in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week, except in the emergencies set forth in the Labor Law.
 - (b) The wages paid for a legal day's work shall be not less than the prevailing rate of wages as defined by law.
 - (c) The minimum hourly rate of wages to be paid shall not be less than that stated in the specifications, and any redetermination of the prevailing rate of wages after the contract is approved shall be deemed to be incorporated herein by reference as of the effective date of redetermination and shall form a part of these contract documents.
 - (d) The Labor Law provides that the contract may be forfeited and no sum paid for any work done thereunder on a second conviction for willfully paying less than—
 - (a) the stipulated wage scale as provided in Labor Law, Section 220, subdivision 3, as amended or
 - (b) less than the stipulated minimum hourly wage scale as provided in Labor Law, Section 220-d, as amended.
- IV. The contractor specifically agrees, as required by the provisions of the Labor Law, Section 220-e, as amended, that:
 - (a) in hiring of employees for the performance of work under this contract or any subcontract hereunder, or for the manufacture, sale or distribution of materials, equipment or supplies hereunder, no contractor, subcontractor, shall by reason of race, creed, color, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates.
 - (b) No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired

for the performance of work under this contract on the account of race, creed, color, sex or national origin.

- (c) There may be deducted from the amount payable to the contractor by the State under this contract a penalty of fifty dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract, and
- (d) This contract may be cancelled or terminated by the State or municipality and all moneys due or to become due hereunder may be forfeited for a second or any subsequent violation of the terms or conditions of this section of the contract, and
- (e) The aforesaid provisions of this section covering every contract for or on behalf of the State or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the State of New York.

V. The contractor specifically agrees, as required by Executive Order # 45, dated Jan. 4, 1977, effective February 4, 1977, 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, and will undertake programs of affirmative action to insure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference, but not limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
- (b) If the contractor is directed to do so by the contracting agency or the Office of State Contract Compliance (hereafter OSCC). The contractor shall request each employment agency, labor union, or authorized representative of workers, with which he has a collective bargaining or other agreement or understanding, to furnish him with a written statement that such employment agency, labor union or representative will not discriminate because 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 hereunder and the purposes of Executive Order # 45 (1977).
- (c) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- * (d) The contractor will comply with all the provisions of Executive Order # 45 (1977) and rules, regulations and orders issued

pursuant thereto and will furnish all information and reports required by said Executive Order or such rules, regulations and orders, and will permit access to its books, records, and accounts and to its premises by the contracting agency or the OSCC for the purposes of ascertaining compliance with said Executive Order and such rules, regulations and orders.

- * (e) If the contractor does not comply with the equal opportunity provisions of this contract, with Executive Order # 45 (1977), or with such rules, regulations, or orders, this contract or any portion thereof, may be cancelled, terminated or suspended or payments thereon withheld, or the contractor may be declared ineligible for future State or State-assisted contracts, in accordance with procedures authorized in Executive Order #45 (1977), and such other sanctions may be imposed and remedies invoked as are provided in said Executive Order or by rule, regulation or order issued pursuant thereto, or as otherwise provided by law.
 - * (f) The contractor will include the provisions of clauses (a) through (e) above and all contract provisions promulgated by OSCC pursuant to Section 1.3 (b) of Executive Order # 45 (1977), in every non-exempt subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work force within the State of New York. The contractor will take such action in enforcing such provisions of such subcontract or purchase order as the contracting agency or the OSCC may direct, including sanctions or remedies for noncompliance. If the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction, the contractor shall promptly so notify the Attorney General, requesting him to intervene and protect the interests of the State of New York.
- VI. The contractor will comply with the provisions of Sections 291-299 of the Executive Law and the Civil Rights Law, will furnish all information and reports deemed necessary by the State Division of Human Rights under the Law, and will permit access to its books, records and accounts by the State Industrial Commissioner for the purposes of investigation to ascertain compliance with the non-discrimination clauses, the Executive Law and Civil Rights Law.
- VII. (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 his 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 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) above 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 therefor. Where (a) (1) (2) and (3) above 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 State, public department or agency 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 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 prices being bid, does not constitute, without more a disclosure within the meaning of sub-paragraph VII (a)

**Note: Reference to the above Rules and Regulations refer to those Rules and Regulations in effect as of the date of the solicitation of bids relative to this contract.

APPENDIX B

STANDARD CLAUSES FOR ALL ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES CONTRACTS

PERSONNEL

- a. The Contractor agrees to be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries, and management of its project personnel. These functions shall be carried out in accordance with the provisions of this AGREEMENT, and all applicable federal, state and local laws and regulations.
- b. It is the policy of the Department to encourage the employment of qualified applicants or recipients of public assistance by both public organization and private enterprises who are under contractual AGREEMENT to the Department for the provision of goods and services. Contractors will be expected to make best efforts in this area.
- c. The Contractor agrees to identify, in writing, the person(s) who will be responsible for directing the work to be done under this AGREEMENT. No change or substitution of such responsible person(s) will be made without prior approval in writing from the Department, to the degree that such change is within the reasonable control of the Contractor

NOTICES

- a. All notices permitted or required hereunder shall be in writing and shall be transmitted either by:
 1. By certified or registered United States mail, return receipt requested;
 2. By facsimile transmission;
 3. By personal delivery;
 4. By expedited delivery service; or
 5. By e-mail

Notices to the Department shall be addressed to the Commissioner of Social Services at the address, facsimile number or e-mail Address provided to the Contractor during contract development or to such different Program Manager as the Department may from time-to time designate.

- b. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.
- c. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The Parties agree to mutually designate individuals as their respective representatives for the

purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

OFFICE SERVICES

- a. The Contractor shall be responsible for the provision of necessary equipment and services for Contractor's staff, pursuant to and described in the narratives and budgets contained in the AGREEMENT.
- b. For federally funded contracts, title to real property and non-expendable personal property whose requisition cost is borne in whole or in part by monies proved under this AGREEMENT shall be determined between the Contractor and the Department, pursuant to federal regulations 45 CFR 92 unless such authority is otherwise inappropriate. Title to all equipment, supplies and material purchased with funds under this AGREEMENT under contracts which are not federally funded shall be in the State of New York and the property shall not be transferred, conveyed, or disposed of without written approval of the Department. Upon expiration or termination of this AGREEMENT, all property purchased with funds under this AGREEMENT shall be returned to the Department, unless the Department has given direction for, or approval of, an alternative means of disposition in writing.
- c. Upon written direction by the Department, the Contractor shall maintain an inventory of those properties that are subject to the provisions of sub-paragraph b of this section

GENERAL TERMS AND CONDITIONS

- a. The Contractor agrees to comply in all respects with the provisions of this AGREEMENT and the attachments hereto. The Contractor specifically agrees to perform services according to the objectives, tasks, work plan and staffing plan contained in the AGREEMENT. Any modifications to the tasks or work plan contained in AGREEMENT must be mutually agreed to by both parties in writing before the additional or modified tasks or work plan shall commence.
- b. If any specific event or conjunction of circumstances threatens the successful completion of the project, in whole or in part, including where relevant, timely completion of milestones, the Contractor agrees to submit to the Department within three (3) days of occurrence or perception of such problem, a written description thereof together with a recommended solution thereto.
- c. The Contractor immediately shall notify in writing the Department Program Manager assigned to this contract of any unusual incident, occurrence or event that involves the staff, volunteers or officers of the Contractor, and subcontractor or Program participant funded through this AGREEMENT, including but not limited to the following: death or serious injury; an arrest or possible criminal activity; and destruction of property; significant damage to the physical plant of the Contractor, or other matters of a similarly serious nature.

- d. In providing these services, the Contractor hereby agrees to be responsible for designing and operating these services, and otherwise performing, so as to maximize federal financial participation to the Department under the Federal Social Security Act.
- e. If funds from this AGREEMENT will be used to pay any costs associated with the provision of legal services of any sort, the following shall apply;
 - 1. No litigation shall be brought against the State of New York, the New York State Office of Children and Family Services or against Oneida County or the Department or other local government or local social services district with funds provided under this AGREEMENT. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from either the State of New York, the New York State Office of Children and Family Services or Oneida County or other local government or local social services district, based upon any agreement between such agency in litigation with another party and such party, during pendency of the litigation.
 - 2. Opinions prepared by consultant law firms construing the statutes of Constitution of the State of New York do not constitute the view of the State unless the prior written approval of the Attorney General is obtained. Requests for said approval shall be submitted to the Solicitor General, Division of the Appeals and Opinions Bureau, department of Law, The Capital, Albany, New York 12224
 - 3. The Contractor shall provide to the Department in a format provided by the Department such additional information concerning the provision of legal services as the Department shall require.
- f. The Department will designate a Contract Manager who shall have authority relating to the technical services and operational functions of this AGREEMENT and activities completed or contemplated there under. The Contract Manager and those individuals designated by him/her in writing shall have the prerogative to make announced or unannounced on-site visits to the project. Project reports and issues of interpretation or direction relating to this AGREEMENT shall be directed to the Contract Manager.
- g. Except where the Department otherwise authorizes or directs in writing, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, for the performance of the obligations contained herein until it has received the prior written approval of the Department, which shall have the right to review and approve each and every subcontract prior to giving written approval to the contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of this AGREEMENT (2) that nothing contained in the subcontract shall impair the rights of the Department under this AGREEMENT, (3) that nothing contained in the subcontract, nor under this AGREEMENT, shall be deemed to create any contractual relationship between the subcontractor and the Department, and (4) incorporating all provisions regarding the

rights of the Department as set forth in this AGREEMENT, where applicable. The Contractor specifically agrees that the Contractor shall be fully responsible to the Department for the acts and omissions of subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Contractor.

- h. The Contractor warrants that it, its staff and any and all subcontractors which must be approved by the Department, have all the necessary licenses, approvals and certifications currently required by the law of any applicable local, state or federal government to perform the services pursuant to this AGREEMENT and/or subcontract entered into under this AGREEMENT. The Contractor further agrees such required licenses, approvals and certificates will be kept in full force and effect during the term of this AGREEMENT, and/or any extension thereof, and to secure any new licenses, approvals or certificates within the required time frames and/or to require its staff and subcontractors to obtain and requisite licenses, approvals or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval or certification to perform the services under this AGREEMENT, Contractor will immediately notify the Department.
- i. This AGREEMENT cannot be assigned by the Contractor to a subcontractor without obtaining written approval of the Department. Prior to executing a subcontract agreement the Contractor agrees to provide the Department the information the Department needs to determine whether a proposed subcontractor is a responsible vendor. The determination of vendor responsibility will be made in accordance with Section n. of General Terms and Conditions herein.
- j. If the Contractor intends to use materials, equipment or personnel paid for under this AGREEMENT in a revenue generating activity, the Contractor shall report such intentions to the Department forthwith and shall be subject to the direction of the Department as to the disposition of such revenue.
- k. Any interest accrued on funds paid to the Contractor by the Department shall be deemed to be the property of the Department and shall either be credited to the Department at the termination of this AGREEMENT or expended on additional services provided for under this AGREEMENT.
- l. The Contractor ensures that the grounds, structures, building and furnishings at the program site(s) used under this AGREEMENT are maintained in good repair and free from any danger to health or safety and that any building or structure used for program services complies with all applicable zoning, building, health, sanitary, and fire codes.
- m. The Contractor agrees to produce, and retain for the balance of the calendar year in which produced, and for a period of six (6) years thereafter, any and all records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under this AGREEMENT. Such records shall include, but not be limited to,

original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

1. Payroll Expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, employee personal history folders, and cost allocation plans, if applicable.
2. Payroll Taxes and Fringe Benefits: cancelled checks, copies of related bank statements, reporting forms, and invoices for Fringe Benefit expenses.
3. Non-Personal Services Expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.
4. Receipt and Deposit of Advance and Reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.
5. The Contractor agrees that any equipment purchased with funds under this AGREEMENT is the property of the Department and will remain with or will be returned to the Department in the event of the termination of this AGREEMENT,

Although not required, the Department recommends that the Contractor retain records directly pertinent to this AGREEMENT for a period of ten (10) years after the end of the calendar year in which they were made, as the statute of limitations for the New York False Claims Act is ten (10) years.

- n. By signing this AGREEMENT, the Contractor certifies that within the past three (3) years the Contractor has engaged in no actions that would establish a basis for a finding by the Department that the Contractor is a non-responsible vendor or, if the Contractor has engaged in any such action or actions, that all such actions have been disclosed to the Department prior to entering into this AGREEMENT. The actions that would potentially establish a basis for a finding by Department that the Contractor is a non-responsible vendor include:
 1. The Contractor has had a license or contract suspended, revoked or terminated by a governmental agency.
 2. The Contractor has had a claim, lien, fine, or penalty imposed or secured against the Contractor by a governmental agency.
 3. The Contractor has initiated a bankruptcy proceeding or such a proceeding has been initiated against the Contractor
 4. The Contractor has been issued a citation, notice, or violation order by a governmental agency finding the Contractor to be in violation of any local, state, or federal laws.
 5. The Contractor has been advised by a governmental agency that a determination to issue a citation, notice or violation order finding the Contractor to be in violation of any local, state or federal laws is pending before a governmental agency
 6. The Contractor has not paid all due and owed local, state and federal taxes to the proper authorities
 7. The Contractor has engaged in any other actions of a similarly serious nature.

Where the Contractor has disclosed any of the above to the Department, the Department may require as a condition precedent to entering into this AGREEMENT that the

Contractor agree to such additional conditions as will be necessary to satisfy the Department that the vendor is and will remain a responsible vendor. By signing this AGREEMENT, the Contractor agrees to comply with any such additional conditions that have been made a part of this AGREEMENT.

By signing this AGREEMENT, the Contractor also agrees that during the term of the AGREEMENT, the Contractor will promptly notify the Department if the Contractor engages in any actions that would establish a basis for a finding by Department that the Contractor is a non-responsible vendor, as described above.

- o. By signing this AGREEMENT, the Contractor agrees to comply with State Tax Law section 5-a
- p. The Contractor must maintain Workers' Compensation Insurance in accordance with the Workers' Compensation Law. If the Contractor believes they are exempt from the Workers' Compensation insurance requirement then they must apply for an exemption. Contractors can apply for the exemption online through the New York State Workers' Compensation Board website at:
http://www.wcb.state.ny.us/content/ebiz/wc_db_exemptions/wc_db_exemptions.jsp
- q. All organizations that receive federal financial assistance under social service programs are prohibited from discriminating against beneficiaries or prospective beneficiaries of the social service programs on the basis of religion or religious belief. Accordingly, organizations, in providing services supported in whole or in part with federal financial assistance, and in their outreach activities related to such services, are not allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

Organizations that engage in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) must perform such activities and offer such services outside of programs that are supported with direct federal financial assistance (including through prime awards or sub-awards), separately in time or location from any such programs or services supported with direct federal financial assistance, and participation in any such explicitly religious activities must be voluntary for the beneficiaries of the social service program supported with such federal financial assistance

REPORTS AND DELIVERABLES

The Contractor shall prepare and submit all reports, documents, and projects required by this AGREEMENT to the Department's Contract Manager for review and approval. These reports shall be in such substance, from, and frequency as required by the Department and as necessary to meet state, federal and Oneida County requirements.

The Contractor shall complete Contract Evaluations as required by the Department as

well as Statistical Data as needed by the Department and New York State to meet the reporting requirements.

CONFIDENTIALITY AND PROTECTION OF HUMAN SUBJECTS

- a. The Contractor agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this project. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this AGREEMENT in conformity with the provisions of applicable state, federal, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this AGREEMENT.
- b. Any Contractor who will provide goods and/or services to a residential facility or program operated by Department agrees to require all of its employees and volunteers who will have the potential for regular and substantial contact with youth in the care or custody of the Department to sign an Employee Confidentiality Certification and employee Background Certification before any such employees and volunteers are permitted access to youth in the care or custody of the Department and/or any financial and/or client identifiable information concerning such youth. Additionally, the Department will require a database check of the State wide Central Register of Child Abuse and Maltreatment (SCR) of each employee and volunteer of the Contractor who has the potential for regular and substantial contract with children in the care or custody of the Department. Any Contractor whose employees and volunteers will have access to financial and/or client identifiable information concerning youth in the care or custody of Department agrees to require all such employees and volunteers to sign an Employee Confidentiality Certification before any such employees and volunteers are permitted access to any financial and/or client identifiable information concerning such youth.
- c. The Contractor and any subsequent subcontractor shall not discriminate or refuse assistance to individuals with AIDS or an HIV infection or an HIV - related illness.

The Contractor and any subsequent subcontractor agrees that their staff to whom confidential HIV - related information may be given as a necessity for providing services and in accordance with 403 of Title 18 NYSDSS regulation and Section 2782 of the Public Health Law are fully informed of the penalties and fines for re-disclosure in violations of state law and regulations.

The Contractor and any subsequent subcontractor must include the following written statement when disclosing any confidential HIV - related information.

"This information has been disclosed to you from confidential records which are protected by state law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of state law may result in a fine or jail sentence or both. A general authorization for the

release of medical or other information is not sufficient authorization for further disclosure."

- d. All information contained in the Contractor's, or its subcontractor's files shall be held confidential pursuant to the applicable provisions of the Social Services Law and any State Department Regulations promulgated thereunder, including 18 NY CRR Sec. 357.5 and 423.7, as well as any applicable federal laws and any regulations promulgated thereunder and shall not be disclosed except as authorized by law.
- e. The Contractor and any of the Contractor's staff that are subject to the Oneida County computer systems/databases shall complete the Oneida County Department of Social Services Confidentiality and Non-Disclosure Agreement provided with this AGREEMENT and shall submit forms to the following address:

Oneida County Department of Social Services
Contract Administration Office, 4th Floor
800 Park Ave
Utica, New York, 13501

PUBLICATIONS AND COPYRIGHTS

- a. The results of any activity supported under this AGREEMENT may not be published without prior written approval of the Department, which results (1) shall acknowledge the support of the Department and the County and, if funded with federal funds, the applicable federal funding agency, and (2) shall state that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretation or policy of the Department or Oneida County.
- b. The Department and Oneida County expressly reserve the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish, distribute or otherwise use, in perpetuity, any and all copyrighted or copyrightable material resulting from this AGREEMENT or activity supported by this AGREEMENT. All publications by the Contractor covered by this AGREEMENT shall expressly acknowledge the Department's right to such license.
- c. All of the license rights so reserved to the Department and Oneida County under this paragraph are equally reserved to the United States Department of Health and Human Services and subject to the provisions on copyrights contained in 45 CFR 92 if the AGREEMENT is federally funded
- d. The Contractor agrees that at the completion of any scientific or statistical study, report or analysis prepared pursuant to this AGREEMENT, it will provide to the Department at no additional cost a copy of any and all data supporting the scientific or statistical study, report or analysis, together with the name(s) and business address(es) of the principal(s) producing the scientific or statistical study, report or

analysis. The Contractor agrees and acknowledges the right of the Department, subject to applicable confidentiality restrictions, to release the name(s) and business address(es) producing the scientific or statistical study, report or analysis, together with a copy of the scientific or statistical study, report or analysis and all data supporting the scientific or statistical study, report or analysis.

PATENTS AND INVENTIONS

The Contractor agrees that any all inventions, conceived or first actually reduced to practice in the course of, or under this AGREEMENT, or with monies supplied pursuant to this AGREEMENT, shall be promptly and fully reported to the Department. Determination as to ownership and/or disposition of rights to such inventions, including whether a patent application shall be filed, and if so, the manner of obtaining, administering and disposing of rights under any patent application or patent which may be issued, shall be made pursuant to all applicable law and regulations.

TERMINATION

- a. This AGREEMENT may be terminated by the Department upon thirty (30) days prior written notice to the Contractor. Such notice is to be made by way of registered or certified mail return receipt requested or hand delivered with receipt granted by the Contractor. The date of such notice shall be deemed to be the date the notice is received by the Contractor established by the receipt returned, if delivery by registered or certified mail, or by the receipt granted by the Contractor, if the notice is delivered by hand. The Department agrees to pay the Contractor for reasonable and appropriate expenses incurred in good faith before the date of termination of this AGREEMENT.
- b. If the Contractor fails to use any real property or equipment purchased pursuant to this AGREEMENT or the Contractor ceases to provide the services specified in the AGREEMENT for which the equipment was purchased, the Department may terminate this AGREEMENT upon thirty (30) days written notice to the Contractor, where the Contractor has failed to cure as set forth hereafter, said notice of breach shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Contractor's receipt therefore. Said notice shall specify the Contractor's breach and shall demand that such breach be cured. Upon failure of the Contractor to comply with such demand within thirty (30) days, or such longer period as may be specified therein, the Department may, upon written notice similarly served, immediately terminate this AGREEMENT, termination to be effective upon the date of receipt of such notice established by the receipt returned to the Department. Upon such termination, the Department may require (a) the repayment to the Department of any monies previously paid to the Contractor, or (b) return of any real property or equipment purchased under the terms of this AGREEMENT or an appropriate combination of (a) and (b), at the Department's option.

- c. To the extent permitted by law, this AGREEMENT shall be deemed in the sole discretion of the Department terminated immediately upon the filing of a petition in bankruptcy or insolvency, by or against the Contractor. Such termination shall be immediate and complete, without termination costs or further obligation by the Department to the Contractor
- d. Should the Department determine that federal, state or County funds are limited or become unavailable for any reason, the Department may reduce that total amount of funds payable to the Contractor, reduce the AGREEMENT period or deem this AGREEMENT terminated immediately. The Department agrees to give notice to the Contractor as soon as it becomes aware that funds are unavailable, in the event of termination under this paragraph. If the initial notice is oral notification, the Department shall follow this up immediately with written notice. The Department will be obligated to pay the Contractor only for the expenditures made and obligations incurred by the Contractor until such time as notice of termination is received either orally or in writing by the Contractor from the Department.
- e. The Contractor shall provide to the Department such information as is required by the Department in order that the Department may determine whether the Contractor is a responsible vendor for purposes of compliance with section 163 of the State Finance Law and requirements of the Department. If there is any change in any of the vendor responsibility information provided to the Department by the Contractor at any time during the term of this AGREEMENT, the Contractor shall be required to immediately notify the Department so that the Department may assess whether the Contractor continues to be a responsible vendor. Should the Contractor fail to notify the Department of any change in the vendor responsibility information or should the Department otherwise determine that the Contractor has ceased to be a responsible vendor for the purposes of this AGREEMENT, the Department may terminate this AGREEMENT upon thirty (30) days written notice to the Contractor. Said notice of termination shall be sent by way of registered or certified mail return receipt requested, or shall be delivered by hand, receiving Contractor's receipt therefore. Said notice shall specify the reason(s) that the Contractor has been found to no longer be a responsible vendor.

Upon determination that the Contractor is no longer a responsible vendor the Department may, in its discretion and as an alternative to termination pursuant to this paragraph, notify the contractor of the determination that the Contractor has ceased to be a responsible vendor and set forth the corrective action that will be required of the Contractor to maintain this AGREEMENT. Should the Contractor fail to comply with the required corrective action within thirty (30) days of the date of notification, or such longer period as may be specified therein, the Department may, upon written notice similarly served, immediately terminate this AGREEMENT, termination to be effective upon the date of receipt of such notice established by the receipt returned to the Department. Upon such termination, the Department may require (a) the repayment to the Department of any monies previously paid to the Contractor, (b) return of any real property or equipment

purchased under the terms of this AGREEMENT, or an appropriate combination of (a) and (b) at the Department's option.

CONTRACTOR COMPLIANCE

The Contractor agrees to provide an Annual Certification pertaining to this AGREEMENT as part of the Contractor's Annual Independent audit.

The Department shall have the right to audit or review the Contractor's performance and operations as related to this AGREEMENT. If the Department should determine that the Contractor has abused or misused funds paid to the Contractor, or if the Contractor has violated or is in non-compliance with any term of any other agreement with the Department, or has abused or misused funds paid to the Contractor under any other agreement with the Department, the rights of the Department shall include, but not be limited to:

1. Recovery of any funds expended in violation of this AGREEMENT;
2. Suspension of Payments;
3. Termination of this AGREEMENT; and/or
4. Employment of another entity to fulfill the requirements of this AGREEMENT.

The Contractor shall be liable for all reasonable costs incurred on account thereof, including payment of any cost differential for employing such entity. The Contractor will assist the Department in transferring the operation of the contracted services to any other entity selected by the Department in a manner that will enable the Department or clients to continue to receive services in an on-going basis, including, but not limited to, notifying clients of the new entity to which the services will be transferred and the effective date of the transfer, providing the new entity promptly and at no charge with a complete copy of the clients' and all other records necessary to continue the provision of the transferred services, and transferring any equipment purchased with funds provided under this AGREEMENT.

Nothing herein shall preclude the Department from taking actions otherwise available to it under law.

The Contractor agrees to cooperate fully with any audit or investigation the Department or any agent of the Department may conduct and to provide access during normal business hours to any and all information necessary to perform its audit or investigation. The Contractor shall also allow the Department, and any representatives specifically directed by the Department to take possession of all books, records and documents relating to this AGREEMENT without prior notice to the Contractor. The Department will return all such books, records and documents to the Contractor upon completion the official purposes for which they were taken.

The Contractor agrees that all agreements between the Contractor and a subcontractor or consultants for the performance of any obligations under this AGREEMENT will be by written contract (subcontract) which will contain provisions including, but not limited to, the above specified rights of the Department.

FISCAL SANCTION

In the sole discretion of the Department, contractors may be placed on Fiscal Sanction when the Department identifies any of the following issues:

1. The Contractor has received an advance, overpayment or other funds under this or another agreement that has not been refunded to the Department within the established timeframe;
2. A Department or other audit identifies significant fiscal irregularities and/or that funds are due to the Department
3. The Contractor has not provided satisfactory services as required under the terms of this or another Department agreement;
4. The Contractor has not provided fiscal or program reports as required under the terms of this or another Department agreement;
5. A Department, County, state or federal prosecutorial or investigative agency identifies possible criminal activity, or significant fiscal or programmatic irregularities on the part of the Contractor;
6. The Contractor is not in compliance with state, federal, or County statutes or regulations, or applicable Department guidelines, policies and/or procedures; or
7. Unsafe physical conditions exist at a program site operated by the Contractor and funded under an agreement with the Department

Once the Contractor has been placed on Fiscal Sanction, payments on all open contracts and any new awards, amendments or contract renewals will not be processed until the issues have been satisfactorily resolved. The Contractor will be notified in advance of any proposed Fiscal Sanction and will be provided a timeframe within which the issues must be resolved in order to avoid Fiscal Sanction. Issues that are not resolved within the timeframe established by the Department may be referred to the Attorney General (AG) for collection of legal action. If a contract is referred to the AG a collection fee will be added to the amount owed. In addition, interest will be due on any amount not paid in accordance with the timeframes established by the AG. The Contractor will remain on Fiscal Sanction until the amount owed, including any collection fee and interest is paid.

ADDITIONAL ASSURANCES

- a. The Department and Contractor agree that the Contractor is an Independent Contractor, and not in any way deemed to be an employee of the Department or County of Oneida for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement or health insurance benefits. The Contractor agrees to defend and indemnify the Department and/or Oneida County for any loss the Department and/or Oneida County may suffer when such losses result from claims of any person or organization injured by the negligent acts or omissions of the Contractor, its officers and/or employees or subcontractors. Furthermore, the Contractor agrees to indemnify, defend, and save harmless the Department and/or Oneida County, and its

**Oneida County Department of Social Services
Contractor and Contract Staff
Confidentiality and Non-Disclosure Agreement**

I, the undersigned, an employee of _____, (the
Name of Contract Agency

“Service Provider”), hereby state that I understand and agree that all information provided to the Service Provider from the Oneida County Department of Social Services staff by paper copies, computer systems or databases, electronic communication or otherwise obtained pursuant to the Agreement entered between the Oneida County Department of Social Services and the Service Provider indicated above, is CONFIDENTIAL, is to be used only for the purposes of performing services required by the Agreement, and must be safeguarded from unauthorized disclosure.

I further understand that such information includes, but is not limited to, any and all information regarding parents or guardians and their children, and all employment, financial, and personal identifying data, including Protected Health Information (PHI) as set forth in HIPAA regulations.

I agree to maintain all such information as CONFIDENTIAL, and I agree to use such information only in the performance of my official duties to perform the functions required by the Agreement, unless otherwise authorized in writing by the Department of Social Services.

I understand that confidential information maintained in and/or obtained from systems/databases such as, but not limited to the Welfare Management system (WMS), Child Support Management System (CSMS/ASSETS), Benefits Issuance Control System (BICS), COGNOS, and Connections are protected by Federal and State statutes and regulations. Access and disclosure of confidential information is strictly limited to authorized employees and legally designated agents, for authorized purposes only in the delivery of program services.

I understand that service providers may not access their own active, closed or archived records or those involving a relative, friend, acquaintance, neighbor, partner or co-worker or other individuals to whom they have no official assignment.

I understand that if my employment is terminated by resignation, retirement or for other reasons or the Service Provider Contract is not renewed, the terms of this Confidentiality and Non-Disclosure Agreement are still binding.

I understand that if I disclose CONFIDENTIAL information in violation of the requirements stated herein, any individual who incurs damages due to the disclosure may recover such damage in a civil action.

I understand that, in addition to any other penalties provided by law, any person who willfully releases or willfully permits the release of any CONFIDENTIAL information as described herein to persons or agencies not authorized under New York State law to receive it shall be guilty of a class A misdemeanor.

Print Name: _____

Signature: _____

Title: _____

Date: _____

Witness: _____

STANDARD ONEIDA COUNTY CONDITIONS ADDENDUM

THIS ADDENDUM, entered into on this 1st day of _____, 201____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative

agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

- i. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

- 1) Abide by the terms of the statement; and
- 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

- 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- 2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

- ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the

Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
 - ii. The Contractor may provide data aggregation services relating to the health care operations of the County.
- c. The Contractor shall:
 - i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
 - ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
 - iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
 - iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
 - v. Make available protected health information in accordance with 45 CFR §164.524;
 - vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
 - vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
 - viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County

available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

- ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
 - i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.

- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as

determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records

shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application;

request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services

(hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, "e-cigarette" shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that

delivers vapor which is inhaled by an individual user as he or she simulates smoking.

- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.

- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

Anthony J. Picente Jr.
County Executive

Colleen Fahy-Box
Commissioner



ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES
County Office Building 800 Park Avenue Utica, NY 13501
Phone (315) 798-5733 Fax (315) 798-5218

June 25, 2018

Honorable Anthony J. Picente Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

FN 20 18-250

HEALTH & HUMAN SERVICES
WAYS & MEANS

Dear Mr. Picente:

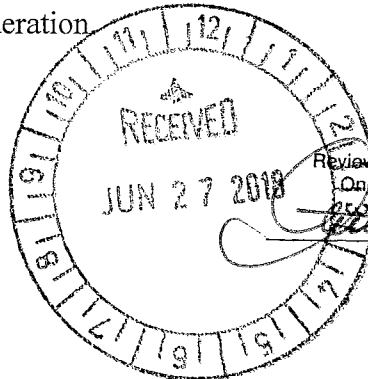
I am submitting the Purchase of Service Agreement between Oneida County Department of Social Services and House of the Good Shepherd for review and approval by the Board of Legislators.

The House of the Good Shepherd provides placement services for children and offers various levels of care. The contractor provides specialized Institutional Foster Care for those children who are unable to remain at home with their biological parents due to behavioral issues at home or in the community, voluntary transfers of custody to Oneida County Department of Social Services and children who have been determined by Family Court to be delinquent or persons in need of supervision.

New York State Office of Children and Family Services assign the rates for the facilities. The term of this Agreement is July 1, 2018 – June 30, 2021. Total cost in 2017 was \$8,316,124.72 with a local share of 30 % or \$ 2,494,837.42. The anticipated cost for three years is \$ 24,948,374.16 with a maximum contract amount of \$ 36,000,000 with a local cost of 10,800,000.00.

I am respectfully requesting that this matter be forwarded to the Board of Legislators for action. Thank you for you consideration

Sincerely,
Colleen Fahy-Box
Colleen Fahy-Box
Commissioner



Reviewed and Approved for submittal to the
Oneida County Board of Legislator by

Anthony J. Picente Jr.
Anthony J. Picente Jr.
County Executive

Date 6-27-18

CFB/vlc
Attachment

92101

Oneida Co. Department Social Services

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other X

Oneida County Board of Legislators
Contract Summary

Name of Proposing Organization:

House of the Good Shepherd
1550 Champlin Avenue
Utica, New York 13502

Title of Activity or Services: Institutional Foster Care for children

Proposed Dates of Operations: July 1, 2018 through June 30, 2021

Client Population/Number to be Served: Children in need of Institutional Foster Care up to age 18 or in some cases 21.

SUMMARY STATEMENTS

1). Narrative Description of Proposed Services

This agreement provides Institutional Foster Care for those children under the age 18, or in some cases 21, who have been adjudicated as a Person In Need of Supervision (PINS) or Juvenile Delinquent (JD), and those whose parents or legal guardians have voluntarily transferred custody to Oneida County Department of Social Services, or those children whose custody has been involuntary committed by the court to an authorized agency, or a foster parent in accordance with section 384-b of the Social Services Law or article 6 of the Family Court Act.

2). Program/Service Objectives and Outcomes -

Placement services are provided including Family Foster Care and/or Institutional levels of care for children who are unable to remain in their home due to behavior issues in the home or community, voluntary transfer of custody to Oneida County Department of Social Services or those children who have been determined by Family Court to be JD or PINS.

3). Program Design and Staffing Level - N/A

Total Funding Requested:

Rates are determined by the New York State Office of Children and Family Services.

- Institutional
- Foster Board Home
- Foster Board Home Therapeutic
- Group Home
- Institutional Emergency

Oneida County Dept. Funding Recommendation: Account #:A6119.495

Mandated or Non-Mandated: Mandated Service

Proposed Funding Source (Federal \$ /State \$ / County \$):

Federal	36.5 % =	\$13,140,000.00
State	33.5 % =	\$12,060,000.00
County	30.0 % =	\$10,800,000.00

Cost Per Client Served: The Department paid a total of \$8,316,124.72 in 2017. The anticipated cost for three years is \$24,948,374.16. The contract has a maximum amount allowed of \$36,000,000.00.

Past performance Served:

O.C. Department Staff Comments: The Department is satisfied with the performance of the contractor and the Department contracts with a number of institutions to ensure the availability of services when needed.

The provider has specific areas of specialization

- Drug/alcohol program
- Diagnostic unit
- Emotionally disturbed
- Residential Facility
- Critical care unit
- Sexual offender program
- Multi-handicapped
- Respite
- Fire Setters

**AGREEMENT
FOR PURCHASE OF FOSTER CARE FOR CHILDREN**

This AGREEMENT made this 1st day of July, 2018, by and between Oneida County, a municipal corporation organized and existing under the laws of the State of New York, through its Department of Social Services, (hereinafter individually called the "Department," the Department and Oneida County shall be collectively called the "County") located at 800 Park Avenue, Utica, New York 13501, and House of the Good Shepherd (hereinafter called the "Agency"), located at 1550 Champlin Avenue, Utica, New York 13502 a foster care agency otherwise authorized by the New York State Office of Children and Family Services ("OCFS") to provide foster care services.

WHEREAS, the Commissioner of Social Services of the County, (hereinafter called the "Commissioner"), is charged with the responsibility for the administration of all child welfare services in the County pursuant to Section 395 et seq. of Social Services Law; and

WHEREAS, the Agency, under the terms of its corporate authority has the power to provide the services required to be performed pursuant to this Agreement, and

WHEREAS, the Department believes that the amount of funds to be paid to the Agency is reasonable and necessary to provide quality services;

NOW THEREFORE, in consideration of the mutual promises herein contained the Department and the Agency mutually agree as follows:

SECTION I- DEFINITIONS

Whenever the following terms are used in this Agreement and schedules attached hereto, they have the following meaning unless otherwise clearly noted:

1. **ADULT PERMANENCY RESOURCE** means a caring committed adult who has been determined by the Department to be an appropriate and acceptable resource for a child and is committed to providing emotional support, advice and guidance to the child and to assisting the child as the child makes the transition from Foster Care to responsible adulthood.
2. **AGENCY BOARDING HOME**, as defined in 18 NYCRR 441.2(i) and as described in 18 NYCRR Part 447, means a family-type home for the care and maintenance of not more than six (6) children operated by an Authorized Agency, in quarters or premises owned, leased or otherwise under the control of such agency, except that such a home may provide care for more than six brothers and sisters of the same family.
3. **AGENCY WITH DESIGNATED CASE PLANNING RESPONSIBILITY** is the Department or voluntary Authorized Agency of the assigned Case Planner.

4. **ANOTHER PLANNED LIVING ARRANGEMENT WITH A PERMANENCY RESOURCE** means a permanency planning goal to assist Foster Care youth 16 years of age or older in their transition to self-sufficiency by connecting the youth to an Adult Permanency Resource, equipping the youth with life skills and, upon discharge, connecting the youth with any needed community and/or specialized services.
5. **ASSIGNED ROLE** means the role in the Family Services Stage designated for each Caseworker in the stage. The Assigned Role determines worker responsibilities and contract obligations of the worker's department or agency. Assigned Roles are always initially designated by the Department and include: Case Manager, Case Planner, Caseworker, and Child Protective Services Monitor. After a role is assigned to an agency worker, it may be reassigned to another worker within that agency.
6. **ASSOCIATED CASEWORKER** is a Caseworker, other than the Case Planner for the family, who is responsible for assessment, service provision, and planning for one or more specific child(ren) placed with the worker's agency.
7. **AUTHORIZED AGENCY**, as defined in section 371(10)(a) and (b) of the Social Services Law, includes either a social services district, an Indian tribe that has entered into an agreement with OCFS to provide Foster Care, or a corporation organized under the laws of New York State and approved by OCFS to provide Foster Care.
8. **CASE CONSULTATION** means the steps taken to assist in the development of the Permanency Hearing Report and preparation for the permanency hearing in accordance with the standards set forth in 18 NYCRR 428.9(b) and (c).
9. **CASE INITIATION DATE (CID)** means the earliest of:
 - a. the initial date of application for Foster Care services, mandated or non-mandated preventive services for children;
 - b. the date that a report to the Statewide Central Register of Child Abuse and Maltreatment (SCR) is determined to be indicated;
 - c. the date of placement of a child in Foster Care pursuant to Article 3 or 7 of the Family Court Act or the date of removal of a child from his or her home which led to placement in Foster Care either pursuant to Article 10, 10-B or 10-C of the Family Court Act or section 383-c, 384 or 384-a of the Social Services Law or placement in the direct legal custody of a relative or other suitable person by the court pursuant to Article 10 of the Family Court Act; or
 - d. the date of a court-ordered preventive services or commitment of care, custody and/or guardianship of a child to the Department for placement with a voluntary Authorized Agency or Foster Parent.

10. **CASE MANAGEMENT** means those activities referenced in 18 NYCRR 428.2(b) related to overseeing all aspects of a case, including but not limited to: the making of timely and accurate eligibility determinations and service authorizations; following procedural safeguards regarding protection of the rights of the parents and child; providing care, maintenance and services appropriate to the child's needs; accepting voluntary placement agreements under appropriate circumstances; timely initiating all appropriate judicial proceedings; approving each Family assessment and Service Plan; and timely and accurate entry of all data required to be entered in the Welfare Management System (WMS), the Child Care Review Service (CCRS), CONNECTIONS and any other statewide automated child welfare information system designated by OCFS. Case Management is always the responsibility of the Department.
11. **CASE MANAGER** is an employee of the Department with responsibility to authorize the provisions of services; to approve client eligibility determinations according to 18 NYCRR 423.3(b), 430.9, 430.10 and 432.2; and to approve in writing or by electronic equivalent the Family Assessments and Service Plans, as defined in 18 NYCRR Part 428. The Case Manager is responsible for role assignment in the Family Services Stage.
12. **CASE PLANNING** means those activities referenced in 18 NYCRR 428.2(c) necessary for provision, arrangement, coordination and evaluation of the services specified in the child and family's service plan. In addition, Case Planning includes referring the child and his or her family to providers of services as needed, and delineating the roles of the various service providers. Case Planning responsibility also includes documenting client progress and adherence to the service plan by recording in the Uniform Case Record that such services are provided, as required by 18 NYCRR Part 428 and 18 NYCRR 430.9 through 430.12, and making casework contacts or arranging for casework contacts as required under 18 NYCRR 423.2(b)(3), 423.4(c)(1)(ii)(d)(2), 432.2 and 441.21.
13. **CASE PLANNER** is the Caseworker with the primary responsibility for providing, or coordinating and evaluating, the provision of services to the family. The Case Planner delineates the roles of the various service providers and requires collaboration among all the Caseworkers assigned to the Family Services Stage so that a single Family Assessment and Service Plan is developed. The Case Planner is responsible for the Family Assessment and Service Plan and its submission to the Case Manager for approval. There is a single Case Planner, who may be an employee either of the Department or the Agency, assigned per Family Services Stage. The Case Manager may be assigned as the Case Planner and perform the dual roles of Case Manager and Case Planner, except for approval of the Family Assessment and Service Plan which becomes the responsibility of the Case Manager's supervisor in this instance.

14. **CASEWORKER** is any additional Department or Agency staff other than Case Manager or Case Planner directly involved in a child welfare case who provides services to any family member, or assesses, evaluates, makes casework contacts, and/or arranges or coordinates one or more aspects of service delivery. The Caseworker contributes to the development of the Family Assessment and Service Plan as directed by the Case Planner. There may be multiple Caseworkers assigned to a Family Services Stage.
15. **CHILD PROTECTIVE SERVICES MONITOR** is an employee of the Department's child protective service who is monitoring services being provided by someone other than a child protective service employee to the children and family named in an indicated report of child abuse or maltreatment.
16. **DEEMED TO HAVE A GOAL OF DISCHARGE TO ANOTHER PLANNED LIVING ARRANGEMENT WITH A PERMANENCY RESOURCE** means any child 16 years of age or older who has resided in Foster Care for at least 12 months within the past 36 months and who has a goal of discharge to parents or relatives or adoption. The category "Deemed to Have a Goal of Discharge to Another Planned Living Arrangement with a Permanency Resource" requires the same services as if the child has a goal of discharge to Another Planned Living Arrangement with a Permanency Resource.
17. **DISCHARGE SERVICES** means Supervision Services and may include the provision of, Referral to, or coordination with other appropriate services, when the child has been returned to the home of his or her parents, other relatives, Primary Resource Person or an Adult Permanency Resource, as described in 18 NYCRR 430.12.
18. **FAMILY ASSESSMENT AND SERVICE PLAN** means the assessment and analysis of the family members' strengths, needs and problems; and the plan for services, as required by 18 NYCRR Part 428.
19. **FAMILY SERVICES INTAKE** means the CONNECTIONS stage for documentation of family information and events prompting the opening of a Family Services Stage. A Family Services Intake must be completed before a Family Services Stage can be opened.
20. **FAMILY SERVICES STAGE** means the CONNECTIONS stage for documentation of cases open for child welfare services. There can be only one open Family Services Stage for a family per social services district. The family Services Stage is linked to a family case that is comprised of all past and current stages for the family.
21. **FUNDING ELIGIBILITY** means the initial determination of a family's eligibility for Foster Care services and required periodic re-determinations consistent with provisions of

federal and state statutes and regulations, including but not limited to Title IV-E of the Social Security Act.

22. **FOSTER CARE or FOSTER CARE OF CHILDREN** means all activities and functions provided relative to the care of a child away from his or her home 24 hours per day in a foster family free home or a duly certified or approved Foster Family Boarding Home, or a duly licensed or certified Group Home, Agency Boarding Home, child care Institution, health care facility or any combination thereof. Foster Care of Children also means activities and functions relative to the care of a child away from his or her home 24 hours per day in a home or facility operated or licensed by the New York State Office of Mental Health, New York State Office for People With Developmental Disabilities, or the New York State Office of Alcohol and Substance Abuse Services in accordance with the provisions of section 398(6)(g)(2) of the Social Services Law and the memorandum of understanding between OCFS and such Office in accordance with Title IV-E of the Social Security Act.
23. **FOSTER CHILD(REN)** means a child or children who meet the criteria of 18 NYCRR 441.2(a). Foster Child or Children also includes a child or children placed in the care and custody of the Department as a destitute child or children in accordance with Article 10-C of the Family Court Act.
24. **FOSTER FAMILY BOARDING HOME**, as defined in 18 NYCRR Part 443, means a residence owned, leased, or otherwise under the control of a single person or family who has been certified or approved by an Authorized Agency or by the New York State Department of Mental Hygiene or OCFS to care for children, and such person or family receives payment from the Agency for the care of such children.
25. **FOSTER PARENT** means a person, other than the child's parent, stepparent, or legal guardian, but including a relative within the third degree to the child's parent or stepparent, who is certified or approved to board children who are in the care, custody or guardianship of an Authorized Agency or OCFS, and who are placed for temporary or long-term care.
26. **GROUP HOME**, as defined in 18 NYCRR 441.2(h) and as described in 18 NYCRR Part 448, means a family-type home for the care and maintenance of not less than seven , nor more than 12 children who are at least 5 years of age, operated by an Authorized Agency, in quarters or premises owned, leased or otherwise under the control of such agency, except that the minimum age limitation is not applicable to siblings placed in the same facility nor to children whose mother is placed in the same facility.

27. **INSTITUTION**, as defined in 18 NYCRR 441.2(f) and as addressed in 18 NYCRR Part 442, means any facility operated by an Authorized Agency for the care and maintenance of 13 or more children.
28. **LIFE SKILLS SERVICES** means services designated to assist Foster Children and former Foster Children to prepare for employment and post-secondary education, and to make the transition to responsible adulthood. Life Skills Services include, but are not limited to, structured programs of vocational training, life skills instruction, post Discharge Services and supervision until 21 years of age.
29. **PERMANENCY HEARING REPORT** means a sworn report as defined in section 1087 of the Family Court Act prepared in accordance with section 1089 of the Family Court Act in the form and manner as required by OCFS. The Permanency Hearing Report must be filed with the court and submitted to the parties and other persons set forth in section 1089 of the Family Court Act no later than 14 days prior to each permanency hearing that includes, but not limited to, information regarding the health and well-being of the child, the reasonable efforts that have been made since the last permanency hearing to finalize the child's permanency plan and the recommended permanency plan for the child.
30. **PUBLIC CHARGE** means a child whose income and resources, including available parental support, are insufficient to meet the total cost of Foster Care, including the cost of clothing and providing for the child's special needs.
31. **REFERRAL** means a request made by the Department that the Agency provide a service for a Public Charge.
32. **PRIMARY RESOURCE PERSON** means any individual related or unrelated to a child who is determined by the Department and the Agency to be an actual or potential source of support, care or assistance for the child.
33. **REASONABLE AND PRUDENT PARENT STANDARD** means the standard, as prescribed by OCFS, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a Foster Child, while at the same time encouraging the emotional and developmental growth of the child, that a Foster Parent or child care facility must use when determining when to allow a Foster Child to participate in extracurricular, enrichment, cultural, and social activities.
34. **SERVICE PLAN REVIEW** means a case conference, including at least the Case Planner or the child's Caseworker and a Third Party Reviewer. Efforts must be made to involve the child's parent(s), unless their rights to the child have been terminated, the child's guardian(s), the child who is at least 10 but less than 14 years of age, unless

there is a documented reason related to the current necessity of placement why the child should not be involved, the child who is 14 years of age or older, the child's current Foster Parent, caretaker relative or pre-adoptive parent, members of the child's Case Planning team chosen by the Foster Child who is 14 years of age or older and not rejected by the Department or Agency with Case Management responsibility in accordance with 18 NYCRR 428.3 and other participants to review and develop a service plan for the case in accordance with the standards set forth in 18 NYCRR 428.9 and 430.12(c)(2). A Service Plan Review conference is required in order to complete the comprehensive Family Assessment and Service Plan and family reassessment and service plan when a child is in Foster Care, except that a permanency hearing satisfies the requirements for a Service Plan Review if such permanency hearing is held and completed within six months of the previous Service Plan Review.

35. **SUPERVISED INDEPENDENT LIVING PROGRAM** means one or more of a type of Agency Boarding Home operated or certified by an Authorized Agency in accordance with 18 NYCRR Part 449 to provide a transitional experience for older Foster Children who, based on their circumstances, are appropriate for transition to the level of care and supervision provided in the program.
36. **SUPERVISION SERVICES** means Referral to or coordination with other appropriate available services for a child, until the child becomes 21 years of age, when the child has been discharged to Another Planned Living Arrangement with a Permanency Resource as described in 18 NYCRR 430.12.
37. **THIRD PARTY REVIEWER** means an administrator or other person not responsible for the Case Management or delivery of services to a case or in the direct line of supervision for that case. The Third Party Reviewer is a required participant in Service Plan Reviews.
38. **UNIFORM CASE RECORD** means all documentation, both electronic and external, as required by 18 NYCRR Parts 428 and 466.

SECTION II - TERM OF AGREEMENT AND RENEWAL

1. The term of this Agreement is from July 1, 2018 through June 30, 2021. If the Agreement is for a period in excess of 12 months, the Department must review the Agreement on at least an annual basis for verification of conformance by the Agency and is continued for subsequent periods only if the Department determines that the Agreement continues to be in the best interest of the Department.
2. The parties hereto are under no obligation to renew this Agreement or to purchase or provide any care after the expiration of the term set forth herein or any renewal thereof,

except as herein provided. Either party shall give notice in writing of its intention not to renew the Agreement at least six months prior to the expiration of this Agreement.

3. If negotiations for a new Agreement have not been completed upon expiration of this Agreement or subsequent renewal, the parties must enter into a written interim continuation agreement covering the period until negotiations are completed and a new Agreement is executed.

SECTION III - SCOPE OF SERVICES

1. It is mutually agreed between the Department and the Agency that the Agency shall provide Foster Care services and provide or obtain appropriate medical services in accordance with the standards prescribed by OCFS and as prescribed by federal and New York State laws and regulations, including, but not limited to Article 6 of the Social Services Law; 18 NYCRR Parts 427, 428, 430, 431 and 441-451; and the Program Narrative, which is attached hereto and incorporated herein as Schedule A.
2. The Agency warrants that it and its staff have all the necessary licenses, approvals and certifications currently required by the laws of any applicable municipality or local, state or federal government. The Agency further agrees to keep such required licenses, approvals and certificates in full force and effect during the term of this Agreement, or any extension thereof, and to secure any new licenses, approvals or certificates within the required time frames. The Agency shall promptly notify the Department of any enforcement action taken with respect to such license, approval or certificate and any action the Agency is taking with respect thereto. The Department agrees to thereafter notify OCFS of such enforcement action and Agency remediation.
3. The Department is responsible for the determination of eligibility of children for Foster Care through all applicable funding streams pursuant to the regulations, policies and procedures of OCFS and applicable federal requirements. The Department is also responsible for the determination of eligibility for federal adoption assistance, state adoption subsidy or kinship guardianship assistance in accordance with applicable federal and state standards.
4. The Department is responsible for the initial and continued authorization of Medical Assistance eligibility and verification of citizenship or qualified immigration status of children in Foster Care pursuant to the regulations, policies and procedures of OCFS, and the New York State Department of Health and applicable federal requirements. The Department is responsible for the review of the status of Medical Assistance eligibility and authorization of continuous coverage for Medical Assistance for children in Foster Care at the time of discharge from Foster Care.

5. The Agency shall provide Foster Care for children in accordance with the Program Narrative and rates of payment appended to this Agreement as Schedules A and B. These rates are to be negotiated in accordance with the regulations of OCFS.
6. The Agency and the Department must cooperate in collecting and entering data into the child welfare information systems (WMS and/or CONNECTIONS) and any other statewide automated child welfare information system designated by OCFS in the form and manner required by OCFS. The Agency shall provide such information to said data system as is required by the Department. The Agency, at the option of the Department, agrees to record information in WMS and CCRS, as required, until CONNECTIONS is implemented by the Department.
7. To the extent that CONNECTIONS is implemented in the district, as determined by OCFS, CONNECTIONS will be the system of record and the Agency must enter and maintain required child welfare information, including but not limited to, person and family information, periodic Family Assessment and Service Plans, plan amendments, and progress notes in CONNECTIONS. The Agency must review all current information about its cases that is recorded by other workers in the Family Services Stage. As additional components of CONNECTIONS are implemented in the district, as determined by OCFS, during the duration of this Agreement, CONNECTIONS will be the system of record in regard to such components and the Agency must enter and maintain required child welfare information in CONNECTIONS.

Once CONNECTIONS is implemented in the district, the Agency may not use its own internal system in lieu of CONNECTIONS. The Agency shall comply with applicable statutory and regulatory standards for recording child welfare information including, but not limited to, 18 NYCRR Parts 428 and 466.

8. The Agency must keep all CONNECTIONS equipment secure from theft and unauthorized use.
9. The Agency shall not discriminate against employees, applicants for employment, or applicants for or recipients of services because of race, creed, color, national origin, gender, age, disability, marital status or sexual orientation.
10. The Department and Agency agree to provide the following in relation to each child covered by this Agreement. Department options are identified in Schedule C, which is attached hereto and incorporated into this Agreement.

A. STANDARDS RELATED TO PLACEMENT

1. Intake for Family Services

The Department, or the Agency at the option of the Department, will complete the Family Services Intake, including but not limited to:

- a. Completion of the Application for Services (DSS-2921);
- b. Entry of demographic information into CONNECTIONS to create the Uniform Case Record Face Sheet;
- c. Completion of all required CONNECTIONS intake components; and
- d. Performance of a person and case search to relate known persons and cases, unless the Department specifically retains this responsibility.

In the event the Agency completes the Family Services Intake, it must submit it to the Department for acceptance within five (5) days of taking the intake or the day upon which the child entered the Agency, whichever is earlier.

In the event that a child in the custody of the Department is placed by the court directly into the care of the Agency, or in the event a child in the custody of OCFS is placed directly into the care of the Agency, the Agency must complete the Family Services Intake as described above and submit it to the Department for acceptance within five (5) days of the day upon which the child entered that agency.

2. Opening of a Family Services Stage and Designation of Case Planner

Only the Department can open a Family Services Stage. When the Department completes or accepts a Family Services Intake, the Department will stage progress the Family Services Intake to a Family Services Stage and assign a worker role to the Agency that identifies Agency responsibilities in the Family Services Stage.

The Department will open the Family Services Stage and assign an Agency worker as either Case Planner for the family or Caseworker for the child at the time of the child's admission to the Agency or within five days of submission of the Family Services Intake.

The Department will enter in CONNECTIONS the names and roles of any other Caseworkers and service providers assigned to the case.

The provisions of this paragraph also apply to a child placed solely in the legal custody of the Commissioner of OCFS who is placed directly in the care of the Agency. For Foster Children placed solely in the legal custody of the Commissioner of OCFS and cared for by the Agency, the Department shall assign a role of Case Planner or Caseworker, as

appropriate, in the Family Services Stage to the Agency, and a role of Caseworker to OCFS within five (5) days of the Family Services Intake. For those children in the legal custody of the Commissioner of the Department who are subsequently also placed into the legal custody of the Commissioner of OCFS and placed by the court in the care of the Agency, the Department shall determine and assign the Case Planner and the role of Caseworker to any other Agency staff and staff of OCFS, as appropriate, within five (5) days of intake. Such children shall be identified to be in the “joint custody” of the Commissioner of the Department and OCFS.

3. Case Initiation Date (Day 1)

CONNECTIONS will calculate the Case Initiation Date (CID), in accordance with 18 NYCRR Part 428. The CID will be designated and displayed in CONNECTIONS as soon as a child protective services report is indicated, or upon worker entry of the date of application for services, date of removal/placement (depending on the category of Foster Care placement), or date of court-ordered services. The system will use the earliest of these dates as the CID.

4. Designation of Program Choice and Permanency Planning Goal

The Department or the Agency with Designated Case Planning Responsibility, at the option of the Department, must initially set child program choice(s) and a permanency planning goal consistent with applicable statutory and regulatory standards. Where the Agency with Designated Case Planning Responsibility must initially set child program choice(s) and a permanency planning goal, the Agency with Designated Case Planning and the Agency of the Associated Caseworker must review and update program choice(s) and a permanency planning goal in CONNECTIONS, as appropriate, prior to opening each Family Assessment and Service Plan. The Case Planner, or the Associated Caseworker at the direction of the Case Planner, must record programmatic eligibility for Foster Care placement and preventive services within each Family Assessment and Service Plan, while the Department must determine eligibility for all applicable funding streams.

The Department shall remain responsible for reviewing the child’s permanency planning goal throughout the Foster Care episode and will make a determination as to whether the permanency plan goal for each child is appropriate and that the Agency has considered all appropriate options for discharge, including:

- a. Return to parent or guardian;
- b. Adoption;
- c. Legal guardianship or legal custody;

- d. Placement with a fit and willing relative; or
- e. Placement in Another Planned Living Arrangement that includes a significant connection to an adult who is willing to be a permanency resource for the child 16 years of age or older, if there is a compelling reason for determining that it is not in the best interests of the child to have any of the discharge options noted in a-d above. Another Planned Living Arrangement includes either discharge to Another Planned Living Arrangement with a Permanency Resource or adult residential care.

The Department shall notify the Agency with Designated Case Planning Responsibility if the Department requires a change to the permanency planning goal or if the permanency goal is modified by the court.

5. Initial Family Assessment & Service Plan

The Agency with Designated Case Planning Responsibility must complete the initial Family Assessment and Service Plan and submit it to the Case Manager for approval no later than ten (10) days prior to the due date of the initial Family Assessment and Service Plan. The Family Assessment and Service Plan must be approved by the Case Planner's supervisor prior to its submission to the Case Manager.

The Agency of the Associated Caseworker must complete the initial Family Assessment and Service Plan components including case update, child strength, needs and risk scales, Foster Care issues, assessment analysis, and service plan outcome and activity blocks for the associated child, within the time period directed by the Case Planner.

Where there is a program choice of child protective, the Case planner is responsible for the completion of the safety and risk assessment components of the Family Assessment and Service Plan, unless the Child Protective Services Worker/Monitor is so designated by the Department. Completion of the safety and risk assessments is the responsibility of the Case Planner in non-protective cases.

If the Department places the child with the Agency within fifteen (15) days prior to the due date, or after the due date, of the initial Family Assessment and Service Plan, the Department will retain the role of Case Planner and such designated worker will complete the initial Family Assessment and Service Plan and submit it to the Case Manager for approval before assigning the Agency as designated Case Planner. A worker designated by the Agency will be assigned the role of Caseworker in the interim. Where the Department Case Manager is also serving as Case Planner, the Family Assessment and Service Plan must be submitted to the Case Manager's supervisor for approval.

The provisions of this paragraph and paragraphs (6) and (7) of the section dealing with "Standards Related to Placement" also apply to a Foster Child solely in the legal custody of the OCFS who is placed directly in the care of the Agency. For a Foster Child placed solely in the legal custody of OCFS and cared for by the Agency, the Agency shall submit the Family Assessment and Service Plan to both the Department and OCFS for approval. The

Department shall have the ministerial CONNECTIONS role of Case Manager and OCFS will have the programmatic and functional role of Case Manager over such children. For children in the “joint custody” of the commissioner of the Department and OCFS, the Agency shall submit the Family Assessment and Service Plan to both the Department and OCFS for approval. To the extent that the child is in the legal custody of the Commissioner of the Department, the Department, in cooperation with OCFS, retain the programmatic and functional role of Case Manager for such children.

6. Comprehensive Family Assessment and Service Plan and Subsequent Reassessment Family Assessment and Service Plans

The Agency with Designated Case Planning Responsibility must complete the 90-Day comprehensive Family Assessment, the first family reassessment and Service Plan no later than 210 days from the CID and each six (6) month subsequent Family Assessment and Service Plan for the case as long as the Agency is the designated Case Planner and the child remains in the care of that Agency, unless the child entered the care of the Agency within 30 days prior to the date the comprehensive or reassessment Family Assessment and Service Plan is due.

If the child was previously in the care of another Agency that had Case Planning responsibilities, and entered the care of the Agency within 30 days prior to the date the Family Assessment and Service Plan is due, the Agency with previously Designated Case Planning Responsibility must complete the Family Assessment and Service Plan for that period and reassignment of the Case Planner role will be delayed until after its approval. If the child was not previously in care but entered the care of the Agency within 30 days prior to the date the Family Assessment and Service Plan is due, the Department will complete the Family Assessment and Service Plan for that period and delay reassigning the Case Planner role until after its approval.

The Agency with Designated Case Planning Responsibility must complete the appropriate Family Assessment and Service Plan and submit it to the Case Manager for approval no later than 10 days prior to the date it is due as specified in 18 NYCRR Part 428. The Family Assessment and Service Plan must be approved by the Case Planner’s supervisor prior to its submission to the Case Manager. The Agency of the Associated Caseworker must complete the Family Assessment and Service Plan components including case update, child strength, needs and risk scales, Foster Care issues, assessment analysis, and service plan outcome and activity blocks for the associated child, within the time period directed by the Case Planner.

Where there is a program choice of child protective, the Case Planner is responsible for the completion of the safety and risk assessment components of the Family Assessment and Service Plan, unless the Child Protective Services Worker/Monitor is so designated by the Department. Completion of the safety assessment is the responsibility of the Case Planner in non-protective cases.

The Department Case Manager will review and either approve or reject the Family Assessment and Service Plan no later than five days following the submission of any Family Assessment and Service Plan.

If, after reviewing any Family Assessment and Service Plan, the Department disagrees with the assessment or the plan of services, the Department shall contact the Agency with Case Planning Responsibility within five days of submission of the Family Assessment and Service Plan to discuss the area(s) of disagreement and necessary revisions. The modified Family Assessment and Service Plan, containing the revisions as agreed to by both parties, must be resubmitted by the Agency with Case Planning Responsibility to the Case Manager for approval within five (5) days of the rejection of the Family Assessment and Service Plan. The Family Assessment and Service Plan must be approved by the Case Planner's supervisor prior to its submission to the Case Manager.

The Family Assessment and Service Plan for a Foster Child 14 years of age or older must include a document that addresses the rights of such Foster Child, as prescribed by OCFS and in conformance with 18 NYCRR 428.6.

For a Foster Child with a permanency planning goal of discharge to Another Planned Living Arrangement with a Permanency Resource, the Service Plan Review must address whether the child's Foster Parents or child care facility with whom or in which the child is placed is following the Reasonable and Prudent Parent Standard and is participating in age or developmentally appropriate activities as set forth in 18 NYCRR 441.25 and as otherwise prescribed by OCFS.

7. Plan Amendment/Status Changes

If one of the following changes in program status occurs after completion of the initial, comprehensive or reassessment Family Assessment and Service Plan, and before the subsequent Family Assessment and Service Plan can be opened on the system, a plan amendment must be completed and submitted to the Case Manager for approval as required by 18 NYCRR Part 428:

- a. Preventive services are started for a child;
- b. Preventive services are ended for a child;
- c. Case open to CPS;
- d. Case closed to CPS;

- e. A child is removed from his or her home and enters or reenters Foster Care;
- f. A child is moved from one Foster Care setting to another;
- g. A child is removed from his or her home and is placed in the direct custody of a relative or other suitable person pursuant to Article 10 of the Family Court Act;
- h. A child becomes legally freed for adoption;
- i. A child is discharged (trial or final) from Foster Care, including finalization of adoption; or
- j. At the Department's option, the Agency must complete a plan amendment for a change to the visiting plan for a child, or for any other status change the Department so delegates.

The Agency with Designated Case Planning Responsibility or the Agency of the Associated Caseworker of the relevant child, as determined by the Department, must complete the plan amendment as appropriate in accordance with the standards set forth in 18 NYCRR 428.7. The Agency with Designated Case Planning Responsibility must submit the plan amendment. The plan amendment must be approved by the Case Planner's supervisor prior to its submission to the Case Manager.

If a status change occurs subsequent to completion of the initial Family Assessment and Service Plan, it must be documented and approved by the Department within 30 days of the change, except for when a case is opened for child protective services or child protective services are ended for a case, which must be documented and approved by the social services district having Case Management responsibility for the case within seven (7) days of the change. Except for the status changes referenced in (E) and (G) above, any other status change that occurs at the time of, or within 60 days prior to, the due date of the next Family Assessment and Service Plan, the status change may be documented and approved as part of the next Family Assessment and Service Plan. Documentation within the Family Assessment and Service Plan must include all information regarding the status change required by OCFS. Such documentation must be provided in the form and manner as required by OCFS and, where appropriate or where a child has been removed from his or her home, must include a visiting plan and an update of the service plan for the family.

Documentation of status changes, whether on the plan amendment or within the Family Assessment and Service Plan, must include all information regarding the status change required by OCFS and, where appropriate, include an update of the service plan for the family.

8. Progress Notes

The Agency must maintain Progress Notes as required by 18 NYCRR 428.5. Progress Notes must be recorded in CONNECTIONS. The Agency must also review all current information about its cases that is recorded by other workers in the Family Services Stage.

9. Maintenance of Current Information

The Agency is responsible for keeping demographic and tracked child detail information regarding the child and his/her family updated in CONNECTIONS. This includes designation of primary and secondary caretakers, maintenance of the family relationship matrix, and recording of child program choice(s) and permanency planning goal.

10. CONNECTIONS/UCR

The intake, Family Assessment and Service Plan, plan amendments, Service Plan Reviews and Progress Notes must be recorded, submitted, approved, and maintained through CONNECTIONS.

11. Provision of Client Services

When any approved Family Assessment and Service Plan identifies needed services which the Agency does not provide, the Department, upon confirmation of the need for services, will directly provide or arrange for provision of those services to the clients.

12. Legal Activities

a. 358-a Petitions

If the child enters Foster Care pursuant to a voluntary placement agreement executed pursuant to section 384-a of the Social Services Law or a surrender executed pursuant to section 384 of the Social Services Law, the Department is responsible for the filing of the 358-a petition for court approval of the voluntary agreement or surrender within the time frames specified in section 358-a of the Social Services Law.

b. Permanency Hearings

- i. Permanency hearings must be held in accordance with the standards set forth in the Social Services Law and the Family Court Act.
- ii. For Foster Children placed pursuant to Article 10 or Article 10-C of the Family Court Act, sections 384 and 384-a of the Social Services and all Foster

Children completely freed for adoption, the following standards apply: 1) the initial permanency hearing for a child completely freed for adoption must be commenced no later than 30 days after the hearing at which the child was freed and must be completed no later than 30 days after commencement; 2) the initial permanency hearing for a child who is not completely freed for adoption must be commenced on the date certain established by the court that may be no later than six months from the date that is 60 days after the child was removed from his or her home and must be completed within 30 days after commencement; and 3) all subsequent permanency hearings must be commenced on the date certain established by the court that may be no later than six months from the completion of the previous permanency hearing and must be completed with 30 days after commencement.

- iii. The Department shall be responsible for the completion and the submission of the Permanency Hearing Report required in accordance with Article 10-A of the Family Court Act, unless otherwise expressly specified by this Agreement.
- iv. For Foster Children placed pursuant to either Article 3 or 7 of the Family Court Act who are not freed for adoption the following standards apply: 1) the initial permanency hearing must be held no later than within 12 months of the date the child is considered to have entered Foster Care or at an earlier date as required by state law or the court (for the purposes of this Agreement, a child is considered to have entered Foster Care pursuant to Article 3 or 7 on the date that is 60 days after the child was removed from his or her home); and 2) all subsequent permanency hearings must be held every 12 months from the preceding permanency hearing or at an earlier date as required by state law or by the court. Unless otherwise specified, the Department will file the petition for a permanency hearing.
- v. For all categories of placements, the Agency agrees to provide the designated Department Case Manager with all requested documents determined by the Department as necessary to support a petition for a permanency hearing or the Permanency Hearing Report, as applicable and the Agency must provide the Department with such documentation in support of the (permanency hearing/extension) petition or the Permanency Hearing Report at least 30 days prior to the date the Department must submit the Permanency Hearing Report or file the petition with the court.

c) Section 1089 Orders

The Department or Agency in receipt of an order of disposition issued pursuant to section 1089 of the Family Court Act must notify the other of such disposition. Such notice must be provided within ten (10) days of the receipt of the court's disposition or no later than five days prior to any necessary action, whichever is earlier. The Agency must comply with the dispositional decisions, unless such decisions involve an order to finalize an adoption proceeding, in which case compliance is the responsibility of the Department.

If the Department or the Agency receives an order from the Family Court pursuant to section 1089 of the Family Court Act requiring diligent efforts or an order to initiate a proceeding to legally free a child for adoption, the Department or the Agency will notify the other in writing or electronically of the order and send a copy of the order to the Department or Agency. Notification will take place within ten (10) days of the receipt of the order. Once the Agency is notified of the court order, it is the Agency's responsibility to comply with the court order through working with the child and the family in regard to the exercise of diligent efforts. It is the responsibility of the Department or the Agency, at the option of the Department, to follow through on the necessary legal aspects of legally freeing a child for adoption.

d) Other Court Orders

The Department or Agency in receipt of any dispositional order of the court must notify the other of such disposition within ten (10) days of the receipt of the court's disposition, or no later than five days prior to any necessary action, whichever is earlier. The Department will determine whether the Department or the Agency is responsible for carrying out orders of the court and so notify the Agency. The Agency must comply with any such orders so designated as their responsibility.

e) Agency Cooperation

The Agency agrees to provide appropriate staff as requested by the Department to testify in court in support of permanency goals or petitions for the extension of, or challenges to placement or in any other court proceedings where the testimony of staff of the Agency is deemed necessary by the Department. The Agency agrees to provide appropriate staff as requested by the Department to testify in court in support of a determination that reasonable efforts were made to finalize the Foster Child's permanency plan or to enable the Foster Child to return home safely.

f) Recording of Legal Activities

The Department, or the Agency at the option of the Department, must enter information regarding all filed legal petitions, court hearings and their resulting orders into CCRS until the implementation of CONNECTIONS Build 19. Once CONNECTIONS legal functionality is implemented in the Department's district, as determined by OCFS, legal petitions, hearings and orders must be recorded in CONNECTIONS.

13. Registration and Photo Listing

The Agency must register and/or photo list with the New York State Adoption Service (NYSAS) any child in its care who is freed for adoption after the child enters the care of that Agency consistent with the standards and within the time frames specified by law and regulation including 18 NYCRR Part 420. If the Agency requires information from the Department for such registration and/or photo listing, it must notify the Department in writing of the information required. At the time the appropriate forms are sent to NYSAS, copies of the forms must also be sent to the Department.

The Agency must register with NYSAS any person who has applied to adopt a handicapped or hard to place child in accordance with the standards set forth in section 372-b(2-a) of the Social Services Law and 18 NYCRR Part 424.

The Department, or the Agency at the option of the Department, must enter information regarding adoption activities into CONNECTIONS. Registration and photo listing must be recorded, maintained, submitted and approved through CONNECTIONS, as specified in Schedule C.

B. STANDARDS RELATING TO NECESSITY AND APPROPRIATENESS OF PLACEMENT

1. Necessary Activities Prior to Placement

If a child at risk of placement is unknown to the Department or is a sibling of another child who is currently in the care of the Agency, the Agency must notify the Department of an impending Foster Care placement within five (5) days of the identification of the child as being at risk of care so the Department can authorize the preventive services to be provided by the Agency and/or direct the Agency to locate alternative living arrangements for the child, as appropriate.

If authorized by the Department, the Agency must offer preventive services to the child and the child's family prior to the child's Foster Care placement and attempt to locate safe alternative living arrangements, pursuant to 18 NYCRR Section 430.10.

2. Necessity and Appropriateness of Placement

The Department will require that the Agency with Designated Case Planning Responsibility, or the Agency of the Associated Caseworker, document sufficient assessment information as required by 18 NYCRR 430.10 and 430.11 in the Family Assessment and Service Plan to justify the placement of the child into Foster Care and to justify the placement of a child into a specific type or level of placement. Such assessment must address the issue of educational stability of the Foster Child in accordance with 18 NYCRR 430.11(c)(1)(i) with regard to the initial and each subsequent Foster Care placement. If the placement does not meet the standards set out in 18 NYCRR 430.11 for that specific type/level of care, the Department will so notify the Agency and request modified and updated assessment information.

3. Continued Necessity and Appropriateness of Placement

The Department shall require that the decision to continue a child in a Foster Care setting and the decision to transfer a child to a specific type/level of placement are made pursuant to 18 NYCRR 430.10 and 430.11.

The Agency with Designated Case Planning Responsibility, or the Agency of the Associated Caseworker, as determined by the Department, must document sufficient assessment information as required by 18 NYCRR 430.10 and 430.11 in the Family Assessment and Service Plan to warrant the continued placement of the child in Foster Care. If applicable, such documentation must justify the placement of the child in a more restrictive level of care than where the child was previously placed, and/or document compliance with the continuity of environment standards set forth in 18 NYCRR Section 430.11 if a change in placement has occurred since the prior Family Assessment and Service Plan Review.

The Agency also must provide, or arrange for, services that attempt to alleviate the circumstances or needs of the child or the child's family that may be causing the child's placement.

C. DILIGENCE OF EFFORT

1. Consistency

The Agency with Designated Case Planning Responsibility and the Agency of the Associated Caseworker must verify and document that the service goals and tasks included in the Family Assessment and Service Plan for the child and/or family are related to the specific needs exhibited by the child and/or family which contributed to the child's

eventual placement in care. The Agency must complete the Family Assessment and Service Plan for the child and/or family with supporting, relevant documentation.

2. Service Plan Review

The Agency with Designated Case Planning Responsibility, or other agency specified by the Department, must convene and hold the review panel for each Service Plan Review in compliance with 18 NYCRR 430.12(c)(2) no earlier than 60 days, but no later than 90 days from the date the child was removed from his or her home, or where the child is placed in Foster Care pursuant to Article 3 or 7 of the Family Court Act, no earlier than 60 days, but no later than 90 days from the date the child was placed in Foster Care. The Case Planner or other convener is responsible for notifying the Department at least two weeks prior to the scheduled review date and for inviting the Case Manager, and Child Protective Services Monitor if applicable, to attend the Service Plan Review.

The Agency with Designated Case Planning Responsibility, or the Department at its option, is responsible for locating an independent Third Party Reviewer to attend and participate at the Service Plan Review. The Agency with Designated Case Planning Responsibility is responsible for inviting other Caseworkers and service providers to the Service Plan Review and obtaining their input into the service plan.

The Agency with Designated Case Planning Responsibility must make efforts to involve all required participants in the development and review of the service plan and any amendments thereto in conformance with 18 NYCRR 428.3, at the case Service Plan Review conference in compliance with 18 NYCRR 430.12(c)(2)(i)(a) and at any Case Consultation in conformance with 18 NYCRR 428.9.

The Agency with Designated Case Planning Responsibility is responsible for inviting each participant in writing, or by electronic notice if the invitee has access to CONNECTIONS, at least two weeks prior to the Service Plan Review. The Agency must hold Service Plan Reviews by the Family Assessment and Service Plan submission date in all cases.

A permanency hearing satisfies the requirements for a Service Plan Review if such permanency hearing is held and completed within six (6) months of the previous Service Plan Review.

In accordance with 18 NYCRR 430.12 (c)(2)(i)(b), when possible, the Agency with Designated Case Planning Responsibility representative must, no later than 30 days after the date of the Service Plan Review, make face-to-face contact with the invited participants who were unable to attend the Service Plan Review. At the face-to-face contact, the Agency must provide the participants with the information required by 18 NYCRR 430.12 (c)(2)(i)(b).

If the face-to-face contact is not possible, the Agency must send the invited participants a letter informing them that the Service Plan Review was held and that a copy of the service plan and all other information required by 18 NYCRR 430.1(c)(2)(i)(b) will be made available to them upon request, provided, however, a copy of the service plan must be given to the child's parent(s).

The Agency must document in CONNECTIONS that each of the above requirements has been met.

3. Case Consultation

The Agency with Designated Case Planning Responsibility, or other specified agency at the option of the Department, must satisfy the Case Consultation requirements set forth in 18 NYCRR 428.9 for each child defined in section 1087 of the Family Court Act in preparation for each permanency hearing held in accordance with Article 10-A of the Family Court Act, including those where the permanency hearing will satisfy the requirement for the Service Plan Review.

The Case Consultation must be conducted no earlier than 60 days, prior to the date certain of the permanency hearing and must be completed with sufficient time to finalize and submit the Permanency Hearing Report at least 14 days before the date certain for the permanency hearing.

The Agency with Designated Case Planning Responsibility, or other agency specified by the Department, must comply with the standards relating to participation, purpose and documentation of the Case Consultation process, as set forth in 18 NYCRR 428.9(b)-(c).

4. Casework Contacts

The Agency with Designated Case Planning Responsibility and the Agency of the Associated Caseworker must maintain casework contacts with the child, the child's current Foster Care caretaker (or provider) and the child's parent or relative once the child enters the Agency's care. Casework contacts must be provided in accordance with 18 NYCRR 430.12(c)(3) and 441.21.

The Department has the option, on a case-by-case basis, to continue to provide Case Planning services and make casework contacts with the family. If the Department chooses to exercise this option, it will notify the Agency at the time the case is referred to the Agency and the Agency will be assigned the role of Caseworker.

5. Visitation

The Agency with Designated Case Planning Responsibility and where there are one or more children placed in an Agency other than the Agency with Case Planning responsibility, the Agency of the Caseworker associated with the child will be responsible for facilitating visitation between the child and the child's parent and/or sibling(s), as required by 18 NYCRR 430.12(d)(1) and 431.10(e).

The Department has the option on a case-by-case basis to continue to provide services to the parents, siblings or relatives and to maintain the responsibility for facilitating the parent-child visitation. If the Department chooses to exercise these options, the Department will so notify the Agency no later than ten (10) days after the child's admission to the Agency.

6. Time in Foster Care

If the child has a permanency planning goal of return to parents or relatives, the Department is responsible for reviewing the child's placement and court-related information in CONNECTIONS and/or CCRS to take required actions under federal and New York State statute and regulation, including but not limited to, those requirements relating to permanency planning and/or the filing of a petition to terminate parental rights, as set forth in section 384-b(3)(l) of the Social Services Law and 18 NYCRR 430.12(e) and 431.9.

The Department will notify the Agency to review the case to determine if preventive services could aid in the discharge of the child, and to make a recommendation to the Department. If preventive services are authorized by the Department and cannot be provided by the Agency, the Department will notify the Agency regarding which specific agency is to provide such services.

7. Unplanned Termination

Termination of Placement - The Agency must give the Department a minimum of a 15 days prior written notice of its intention to request the removal of a child in the Agency's care. Should termination of placement be necessary for any reason for a child specifically placed with the Agency by court order, the Department shall seek termination or modification of the placement order in the appropriate Family Court.

At the point that the Agency can no longer provide for a child at the appropriate type and level of placement needed by the child within its own facilities, the Agency must notify the Department. The Department shall thereafter conduct a diligent search of potential placement resources appropriate for the child within New York State, refer the child to any appropriate identified resource, and provide updates to the Agency. At the point the search

has been exhausted, a conference will be held by the Department Case Manager with the Agency. Following such conference, a notice of termination of placement with the Agency may be given by the Agency to the Department pursuant to the agreements reached at the conference.

D. DISCHARGE TO ADOPTION/KINSHIP GUARDIANSHIP

1. Placement in Adoptive Home

If the child has a permanency planning goal of discharge to adoption, the Agency, at the option of the Department, will locate an appropriate adoptive home for the child and place the child in such home with the knowledge and consent of the Department within the time frames set forth in 18 NYCRR 430.12(e). The Agency must not delay or deny placement of a child freed for adoption with otherwise suitable approved adoptive parents on the basis that the approved adoptive parents reside in a state or county different from that of the Authorized Agency with custody and guardianship of the child. The Agency shall comply with the standards forth in the Howard M. Metzenbaum Multiethnic Placement Act of 1994 (P.L. 103-382), as amended by the Small Business Job Protection Act of 1996 (P.L. 104-188) relating to the placement of children in Foster Care and adoption.

2. Finalization of Adoption

- a. If the permanency plan for the child is adoption or placement in a permanent home other than that of the child's parent and the Agency is an approved adoption agency, the Agency must document in Progress Notes and in the Family Assessment and Service Plan, the steps taken to find an adoptive family or other permanent living arrangement for the child; to place the child directly or through another Authorized Agency with an adoptive family, a fit and willing relative, a legal guardian/legal custodian, including through a kinship guardianship arrangement, or in Another Planned Permanent Living Arrangement; and to finalize the adoption or legal guardianship/legal custody. At a minimum, such documentation must include child-specific recruitment efforts such as the use of state, regional, and national adoption exchanges including electronic exchange systems. Such documentation must reflect reasonable efforts to place the child in a timely manner and to finalize the placement of the child.
- b. If an Agency is not an approved adoption agency, the Department will conduct the adoption home study for the Agency Foster Parent. The Agency must make every effort to provide the Department with all documents necessary for approval of the foster home as an adoptive home, including, but not limited to recent medical records, criminal history record summaries, Statewide Central Register database checks, the Justice Center for the Protection of People with Special Needs category

one substantiated findings checks as set forth in section 495 of the Social Services Law, home study documentation, child social summary, and agency Caseworker recommendations.

- c. The Agency must provide information regarding the adoption subsidy and non-recurring adoption expenses programs to Foster Parent(s) and prospective adoptive parent(s) upon request and at the time a proceeding to free the child for adoption has been commenced or a child is identified to prospective adoptive parent(s), in accordance with 18 NYCRR 421.24 (b). At the time of an adoptive placement, the Agency must provide an adoption subsidy and non-recurring adoption expenses agreement to any person(s) who desires to apply for an adoption subsidy and must send the completed subsidy and non-recurring adoptions expenses agreement and all relevant agency documentation to the Department for final approval within 15 days of receipt of the completed subsidy agreement. The Department, if authorized, will approve or reject the adoption subsidy and non-recurring adoption expenses agreement within 30 days of its submission, or if the Department is not authorized, will send it to NYSAS for final approval.
- d. The Agency, or the Department at its option, must enter information regarding all adoption activities into CCRS until the implementation of CONNECTIONS Build 19. Once CONNECTIONS adoption functionality is implemented in the Department's district, as determined by OCFS, adoption activities must be recorded, submitted and approved in CONNECTIONS.

3. Kinship Guardianship Assistance

Where the Foster Child is placed with a relative Foster Parent and the Foster Child's permanency plan is placement with such relative with the receipt of kinship guardianship assistance payments, the Agency must comply with the case documentation requirements set forth in 18 NYCRR 428.5(c)(12).

E. DISCHARGE TO ANOTHER PLANNED LIVING ARRANGEMENT WITH A PERMANENCY RESOURCE

1. Setting of Goal

The goal of "Place in Another Planned Living Arrangement with a Permanency Resource" may be set in accordance with the requirements of 18 NYCRR 430.12(f) and may only be set for youth who are 16 years of age or older.

2. Preparation for Discharge

The Agency is responsible for assessing the life skills of all Foster Children 14 years and older at least every six months and documenting within the Family Assessment and Service Plan, the child's progress toward attaining each life skill outcome.

The Department, or the Agency at the option of the Department, must provide, or arrange for the provision of, Life Skills Services to all Foster Children 14 years of age and older, regardless of the child's permanency planning goal.

The Department, or the Agency at the option of the Department, must require that Foster Children 14 years of age and older participate directly in designing their own program activities to prepare them for discharge and that the child accept personal responsibility for satisfying his or her part of the program.

The Agency must document the type of service and/or instruction provided, and the provider of the service/instruction in the case record, consistent with 18 NYCRR Parts 428 and 430.

The Department, or the Agency if authorized by the Department, must issue monthly stipend payments to each Foster Child 16 years of age or older with a permanency planning goal of discharge to Another Planned Living Arrangement with a Permanency Resource or deemed to have a goal of discharge to Another Planned Living Arrangement with a Permanency Resource and who is actively participating in Life Skills Services according to his/her service plan in conformance with 18 NYCRR 430.12(f)(2)(i)(b). The Department will provide or arrange for the provision of a monthly stipend payment to each eligible child.

The Department, or the Agency at the option of the Department, must identify any persons, services and agencies which will help the child maintain and support himself/herself in the community, and must assist the child to establish contact with such agencies, service providers and persons and prepare the child to use such community resources.

The Department, or the Agency at the option of the Department, must provide for regular and continuous exploration and development of permanency alternatives for all Foster Children over 14 years of age, including Foster Children over 14 who have previously refused adoption. The Department, or the Agency at the option of the Department, must document the specific efforts to identify and nurture a permanent family connection or other Adult Permanency Resource who is determined to be an appropriate and acceptable resource for the child and is committed to providing emotional support, advice and guidance to the child and to assist the child as the child makes the transition from Foster Care to responsible adulthood.

The Department, or the Agency at the option of the Department, is responsible for providing a written notice of discharge to the child at least 90 days prior to the child's discharge in accordance with 18 NYCRR 430.12 (f).

At the time of the 90-Day Notice, the Department or the Agency, as determined by the Department, must address the following issues related to the child's safety, permanency, and well-being upon discharge:

- a. Appropriate housing that is expected to be available for at least 12 months from the date of discharge is secured;
- b. The child has a sufficient source of income;
- c. Medical coverage is available to the child upon discharge for preventive health care and identified physical, mental, dental health and prescription needs;
- d. Medical assistance coverage for the child will continue uninterrupted until a final determination that the child is ineligible has been made, with notice to the child of the final determination and of the right to a fair hearing to contest the determination;
- e. Arrangements have been made for the child to receive essential documents such as an official or certified copy of the child's United States birth certificate, social security card, health insurance information, medical records, education records and a driver's license or identification card issued in accordance with the requirements of federal law at the time of discharge;
- f. An Adult Permanency Resource is available or is being sought to provide emotional support/advice/guidance upon the child's discharge;
- g. Any safety concerns related to the child's discharge from Foster Care are being addressed; arrangements have been made with service providers for services that the child will need upon discharge; and
- h. The child has been advised of the services that will be available to him/her upon discharge from Foster Care until he/she attains the age of 21.

The information regarding these issues must be updated at the time of trial discharge, and again, at final discharge. The Department or the Agency, as determined by the Department, is responsible for documenting the above information in a plan amendment or Family Assessment and Service Plan.

3. Trial Discharge

The Department or the Agency at the option of the Department and at a rate that is applicable with the provision of trial Discharge/Aftercare Services, must provide trial Discharge/Aftercare Services, as required in 18 NYCRR 430.12(f)(4)(i)(a), including casework contacts, to every child discharged to Another Planned Living Arrangement with a Permanency Resource and every child deemed to have been discharged to Another Planned Living Arrangement with a Permanency Resource for at least six months after discharge. The child will remain in the custody of the Department during the entire period of trial discharge. Trial discharge may continue at the discretion of the Department up to the age of 21 if the reassessment and Service Plan Review indicates either the need for continued custody or a likelihood that the child may need to return to Foster Care. Face-to-face contacts during the trial discharge period must occur at the same frequency as required prior to the child being placed on a trial discharge status.

In the event the child becomes homeless during the period of trial discharge, the Department will assist the child to obtain safe and stable housing. Such housing must reasonably be expected to remain available to the child for at least the first 12 months after the date of discharge. If appropriate housing is not available within 30 days of the date the child becomes homeless, the Department must place the child in a suitable Foster Family Boarding Home, Agency Boarding Home, Group Home or Institution. These provisions regarding trial discharge do not apply where a court order terminates the Department's custody of the child or where the child reaches the age of 21.

4. Post-Discharge

The Department, or Agency at the option of the Department, must provide supervision until the child reaches 21 years of age after the Department's custody has been terminated where the child has been discharged to Another Planned Living Arrangement with a Permanency Resource, deemed to have a goal of Another Planned Living Arrangement with a Permanency Resource, or had remained in Foster Care until the age of 18 or older. During the period of supervision, the Department will be responsible for providing or arranging for financial, housing, counseling, employment, education, medical and other appropriate supports and services as needed, and follow-up efforts. At the time custody of the child is terminated, the Department will advise the child in writing about how to obtain assistance, if needed, upon his or her discharge from Foster Care.

F. DISCHARGE TO ADULT RESIDENTIAL CARE

The goal of discharge to adult residential care may be set in accordance with the requirements of 18 NYCRR 430.10(c)(5) and 430.12 (g)(1)(i). The Department will review

the decision to set that permanency goal in order to determine if there is compliance with the above regulatory standards.

The Agency must document compliance with the standards for setting the permanency goal. The Agency must plan for the discharge of the child as required in 18 NYCRR 430.12(g)(2) and, as applicable, 18 NYCRR 441.14 concerning additional requirements applicable to handicapped children in Foster Care who attain the age of 18.

G. PREVENTIVE SERVICES

The Department shall make the initial decision to authorize mandated preventive services, as well as the decision to reauthorize the case as a mandated preventive services case, in compliance with the client programmatic eligibility standards presented in 18 NYCRR Section 430.9.

The Agency with Designated Case Planning Responsibility or the Agency of the Associated Caseworker, as determined by the Department, must document initial and continuing client programmatic eligibility for mandated preventive services within each Family Assessment and Service Plan. The Department will review programmatic eligibility documentation in CONNECTIONS.

For those cases involving more than one service provider, the Department, through its Case Management responsibility, will assign a specific party as the Case Planner and the remaining providers as Caseworkers.

H. THE AGENCY AGREES TO PROVIDE THE FOLLOWING IN RELATION TO EACH CHILD COVERED BY THIS AGREEMENT:

1. Care of the child in compliance with 18 NYCRR Parts 441 – 451, as applicable.
2. Intake

Utilizing the Referral summary information provided by the Department, the Agency must determine whether the services it provides are appropriate to meet the needs of the child being referred. The Agency shall make every attempt to make this determination and notify the Department within ten (10) days from the initial Referral of the child but must do so within 30 days from the initial Referral of the child.

3. Clothing

Upon placement, clothing needs of a child must be inventoried by the Agency. Any clothing needs identified must be purchased by the Agency. The Department will authorize

allowances to buy necessary clothing and special allowances to buy additional clothing consistent with 18 NYCRR 427.16. The Agency must furnish all replacement clothing as needed during the child's placement and consistent with 18 NYCRR 427.16(a)(4). The Agency must furnish at the time of discharge a basic season-appropriate outfit. Upon discharge, the child is to take with him or her all of his or her possessions and clothing.

4. Medical Services

The Agency is responsible for providing or obtaining necessary and appropriate medical services for any Foster Child in its care. The Agency must comply with the standards set forth in 18 NYCRR 441.22 regarding health and medical services for Foster Children.

The Agency must transmit to the Department documentation necessary to establish citizenship or qualified immigration status in order to authorize categorical Medical Assistance eligibility for a child in Foster Care. The Agency must record required information in CONNECTIONS upon implementation of Build 19, as determined by OCFS. Responsibility for authorization and reauthorization for Medical Assistance remains with the Department.

The Agency shall comply with the requirements set forth in 18 NYCRR 357.3(b) relating to the dissemination of the comprehensive health history of a Foster Child. The Agency must provide the comprehensive health history to the Department and/or appropriate Authorized Agency within seven days of the request. The Agency must record required health and medical information in CONNECTIONS upon Build 19 implementation.

The parties agree that nothing in the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) prevents the Agency from sharing protected health information on Foster Children cared for by the Agency with the Department, OCFS or documenting such information in CONNECTIONS.

5. Notification of Death, Injury or Illness

The Agency must immediately notify the Department whenever a child in its care has suffered an injury, accident or illness which requires emergency medical treatment at a hospital on either an inpatient or outpatient basis, and whenever a child in its care has died, and to provide an autopsy report, if such reports exist. The Agency must also comply with the reporting requirements to OCFS set forth in 18 NYCRR 441.7(c) in regards to the death or injury of Foster Children in its care.

The Agency must immediately notify the New York State Justice Center for the Protection of People with Special Needs, in a form and manner prescribed by the Justice Center, whenever a child placed in accordance with this Agreement dies while being cared for in an

Agency Boarding Home, Supervised Independent Living Program, Group Home, group residence or Institution operated by the Agency.

The Agency, in accordance with 18 NYCRR 441.22(p), must notify OCFS and the local health department if a Foster Child is discovered to have an elevated blood lead level. The Agency must also provide such notice to the Department.

With respect to a child placed outside of the State of New York in accordance with this Agreement, the Agency shall immediately notify the New York State Justice Center for the Protection of People with Special Needs, in a form and manner prescribed by the Justice Center, whenever a child in its care has suffered an injury, accident or illness which requires emergency medical treatment at a hospital on either an inpatient or outpatient basis, and whenever such a child has died, and to provide an autopsy report, if such report exists.

6. Confidential HIV-Related Information

The Department and the Agency shall comply with the requirements of 18 NYCRR 431.7(a) to formulate and implement a written management plan to protect health history information related to an individual who has been diagnosed as having Acquired Immune Deficiency Syndrome (AIDS) or a Human Immunodeficiency Virus (HIV)-related illness or a HIV infection or laboratory tests performed on an individual for HIV-related illness.

The Agency shall require that staff, to whom confidential HIV-related information is disclosed as a necessity for providing services and in accordance with 18 NYCRR 431.7 and section 2782 of the Public Health Law, are fully informed of the penalties and fines for redisclosure in violation of New York State law and regulation.

The Agency and the Department will require that any disclosure of confidential HIV-related information must be accompanied by a written statement which includes the following or substantially similar language:

“This information has been disclosed to you from confidential records which are protected by state law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of state law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure.”

7. Absent Without Consent

The Agency must notify the Department as immediately as practical, but in no circumstance later than 24 hours after the absence, when a child in the care and custody or guardianship and custody of such Department is absent without consent, and must follow the requirements as set forth in 18 NYCRR 431.8. The Department or the Agency, as determined by the Department, must report any missing or abducted Foster Child to law enforcement and the National Center for Missing and Exploited Children in accordance with the standards set forth in 18 NYCRR 431.8. The Department or the Agency, as determined by the Department, must provide written notice to the Family Court that placed the child into Foster Care of the child's absence without consent within 48 hours of the reported absence.

8. Education Program

The Department will not reimburse the Agency for any educational costs for a child placed in a Group Home, Agency Boarding Home, or foster boarding home. These children must be enrolled in the public school educational program, unless another educational option is detailed in the child's Family Assessment and Service Plan. The Agency must record required education information in CONNECTIONS upon Build 19 implementation. The Agency shall comply with the standards set forth in 18 NYCRR 441.13 regarding education of Foster Children in its care.

9. Summer Education Program

The Department shall not reimburse the Agency for summer school tuition costs unless the Agency receives the Department's prior authorization for such costs and the need for the summer program is detailed in the child's Family Assessment and Service Plan.

10. Education Tuition Reimbursement

Children placed in child care Institutions must be educated in the least restrictive educational program, based on an evaluative process defined by the rules and regulations of the New York State Education Department, and tuition reimbursement for such a child will be at the rate calculated or approved for reimbursement by the New York State Education Department pursuant to Article 81 or other applicable sections of the Education Law governing tuition reimbursement for such children.

11. Removals

Removals from a Foster Family Boarding Home will be made in accordance with the requirements of section 400 of the Social Services Law and 18 NYCRR 443.5. The Agency must provide the required written notice to the Foster Parent(s).

12. Child Abuse and Maltreatment

The Agency shall comply with the provisions governing the reporting of suspected cases of child abuse or maltreatment, as set forth in sections 413-416, 418 and 490-492 of the Social Services Law, and the requirements for Statewide Central Register database checks as set forth in section 424-a of the Social Services Law and for Justice Center for the Protection of People with Special Needs category one substantiated findings checks as set forth in section 495 of the Social Services Law.

The Agency shall promptly notify the Department of any report of suspected child abuse or maltreatment occurring in the program regarding any child placed by the Department with the Agency, to notify the Department of the actions taken the Agency in regard to the report and to confirm that, to the extent authorized by law, the parents of the child who is the alleged victim of such abuse or maltreatment will be notified by the appropriate investigative agency of such report.

With respect to a child placed outside of the State of New York in accordance with this Agreement, the Agency shall comply with the following requirements relating to the Justice Center for the Protection of People with Special Needs:

a. Reporting of Abuse and Neglect

In addition to complying with any applicable reporting requirements in the state in which the Agency or facility is located, the Agency shall immediately notify the New York State Justice Center for the Protection of People with Special Needs, OCFS and the Department of any allegation of abuse or neglect, as defined in section 488(1)(a)-(h) of the Social Services Law, involving a child placed in accordance with this Agreement as required by section 490(5) of the Social Services Law.

b. Procedure for Reporting

The Agency further agrees that all reportable incidents of abuse and neglect, as defined in section 488(1)(a)-(h) of the Social Services Law, and all reportable incidents of injury or illness or death indicated in paragraph 5 on page 29 of this Agreement shall be submitted to the New York State Justice Center for the Protection of People with Special Needs. For notifications and reporting to the Justice Center for the Protection of People with Special

Needs related to deaths, injuries or accidents and all allegations of abuse and neglect, required submissions shall be to the Justice Center 24-hour toll-free number:

(855) 373-2122 Suspected Abuse/Neglect Reporting Number

(855) 373-2123 TTY

(855)-373-2124 Reporting Death

c. Cooperation

The Agency further agrees to cooperate with any investigation conducted by the New York State Justice Center for the Protection of People with Special Needs. The Agency further agrees to cooperate with any investigation conducted by a state agency or other entity authorized or required to investigate complaints of abuse or neglect under the laws of the state in which the facility is located and further agrees that the findings of such investigation shall be forwarded to the New York State Justice Center for the Protection of People with Special Needs and each placing entity or funding agency in New York State within 90 days of the complaint of abuse or neglect, or if the investigation is not completed within 90 days, then notification of the status, any interim findings and expected date of completion must be provided during that time period, and the final findings shall be submitted as soon thereafter as possible.

The Agency agrees to submit periodic reports of all allegations of abuse and neglect regarding children from New York State to the Justice Center for the Protection of People with Special Needs in the form and manner requested by the Justice Center.

d. Access

The Agency shall provide the New York State Justice Center for the Protection of People with Special Needs with access at any and all times to any residential school, facility or provider agency, and consistent with federal law, to any books, records, logs, progress notes and data pertaining to such residential school, facility or provider agency regarding any child placed in accordance with this Agreement and any other information deemed necessary for the carrying out the Justice Center's functions, powers and duties.

e. Failure to Comply

Failure by the Agency to comply with the requirements delineated above shall be grounds for the termination of this Agreement.

13. Certification and Approval of Foster and Adoptive Parents

The Agency agrees to comply with all certification and approval requirements for Foster Parents set forth in 18 NYCRR Part 443 and all approval requirements for adoptive parents set forth in 18 NYCRR Part 421. This includes, but is not limited to criminal history record reviews, State Central Register data base checks, Justice Center for the Protection of People with Special Needs category one substantiated findings checks as set forth in section 495 of the Social Services Law, and required medical exams for foster/adoptive parents and their family members. For Foster Parents, this also includes training and application of the Reasonable and Prudent Parent Standard in accordance with 18 NYCRR 441.25 and Part 443. The Agency agrees that children will not be placed in any foster or adoptive home unless applicable requirements for certification, or approval, including emergency approval or certification, have been met.

14. Travel Expenses

If a transportation expense for home visits is not included in the board rate, the Department will authorize transportation in accordance with the visitation plan component of the child's Family Assessment and Service Plan.

If a transportation expense for home visits is included in the board rate, the Agency is responsible for transportation expenses if the destination is within 50 miles of the facility. If the destination is more than 50 miles from the facility, the Department is responsible for transportation costs, including the first 50 miles.

15. Transition plan

Where directed to do so by the Department, the Agency shall develop a transition plan for Foster Children who will remain in care on or after 18 years of age in accordance with the standards set forth in 18 NYCRR 430.12(j).

16. Credit report

Where directed to do so by the Department, the Agency shall provide or arrange for the provision of credit reports of a Foster Child who has attained 14 years of age and annually thereafter in accordance with the standards set forth in 18 NYCRR 430.12(k) until such child is discharged from Foster Care.

17. Criminal History Record Checks

- a. The Agency shall complete criminal history records checks as required by section 378-a of the Social Services Law (SSL) and applicable state regulations.

b. The Agency shall provide to the Department a copy of the criminal history record summary issued to the Agency by OCFS in accordance with section 378-a of the SSL of all Foster Parents and other adult household members of any foster home in which Foster Children in the care and custody or guardianship and custody of the Department are placed or will be placed.

18. Designation of Staff/Reasonable and Prudent Parent Standard

The Agency agrees that in each child care facility (Institution, group residence, Group Home or Agency Boarding Home) operated by the Agency, the Agency will have present on site at least one employee who is designated and trained to apply the Reasonable and Prudent Parent Standard to decisions involving the participation of Foster Children in the child care facility in age or developmentally appropriate activities in conformance with 18 NYCRR 441.25 and as prescribed by OCFS.

19. Interstate Compact on the Placement of Children

- a. Where directed to do so by the Department, the Agency shall be responsible for the completion and processing of the application for approval of the placement of a Foster Child into another state in accordance with the Interstate Compact on the Placement of Children, as set forth in section 374-a of the Social Services Law.
- b. Where directed to do so by the Department, the Agency shall process applications for certification or approval of a foster home in accordance with 18 NYCRR Part 443 of persons and applications for the approval of adoptive parents in accordance with 18 NYCRR Part 421 referred to the Agency by the Department for the purpose of placement of a child into New York in accordance with the Interstate Compact on the Placement of Children, as set forth in section 374-a of the Social Services Law.

I. CLOSING A FAMILY SERVICES STAGE

The Department has sole responsibility for closing the Family Services Stage.

SECTION IV – FAIR HEARINGS

Pursuant to 18 NYCRR Part 358, the Department shall notify eligible applicants for, or recipients of, services of their right to a fair hearing to appeal the denial, reduction or termination of a service, or the failure of the Department to act upon an application within the appropriate time frames. The Department shall also inform applicants for or recipients of preventive, adoption services or kinship guardianship assistance how to make and submit a fair hearing request. The Department shall provide the Agency with copies of the

fair hearing decision it receives from the State of New York. The Agency, upon the request of the Department, must participate in fair hearings and any appeals thereof as witnesses when necessary for a determination of the issues.

SECTION V – REIMBURSEMENT

The Agency agrees that payment by the Department is contingent upon the Agency submitting an appropriate claim form, which has been approved by the Department, to the person designated by the Department certifying the satisfactory completion of the Agency's performance and setting forth the payment to be made.

The Department shall pay to the Agency, on a monthly basis, within 30 days of receipt of a billing statement, an amount equal to the applicable per diem rate(s) set forth in Schedule A, multiplied by each day of care actually provided by the Agency for each Public Charge placed with it, in accordance with this Agreement; provided, however, payment is not to be made for a child when the child is absent from the Agency for reasons other than those set forth in 18 NYCRR 628.3 and as defined by OCFS in the Standards of Payment Manual, Chapter 10, Section F. Payment will not be made to the Agency for the day the child is discharged from Foster Care.

A per diem dollar amount for each of the program types such as foster boarding home, Agency Boarding Home, Group Home and Institution must be specified in Schedule A which is attached hereto and which is incorporated with this Agreement. When the negotiated per diem rate exceeds the state-established Maximum State Aid Rate (MSAR), the MSAR will be used for purposes of state and federal reimbursement. Such per diem dollar amount shall be subject to the standards set forth in section 398-a of the Social Services Law and 18 NYCRR Part 427.

The medical per diem rate(s) established by the New York State Department of Health constitutes the daily rate established to be paid to the Agency for health expenses and provision of health services to a Foster Child, with some specified exceptions. The medical per diem rate(s) must be set forth in Schedule B.

The applicable tuition rate for the appropriate educational services for children placed in child care Institutions will be at the rate calculated or approved for reimbursement by the New York State Education Department pursuant to Article 81 or other applicable sections of the Education Law governing tuition reimbursement for such children.

The anticipated total cost of this Agreement is an estimate and serves as the limit of obligation under this Agreement. Should it appear that the anticipated total cost may be exceeded, an amendment to this Agreement must be executed. The anticipated total cost serves only as an upper limit and in no way obligates the Department to purchase child Foster Care services, maintenance, medical and education costs up to this amount. The

anticipated total cost can be based upon experience during the past agreement year modified by the anticipated experience during the new agreement period. This amount includes the estimated cost of maintenance, social services, medical and education costs to the Department.

The total cost of this Agreement may not exceed \$36,000,000.

SECTION VI – GENERAL RESPONSIBILITIES FOR PARTIES

The Agency has the responsibility in accordance with this Agreement and with applicable OCFS regulations for the day-to-day provision of Foster Care services for each child placed with the Agency. It is recognized by the parties hereto, however, that ultimate responsibility for the welfare of each child rests with the Department.

The Agency must maintain sufficient staff, facilities and equipment, in full compliance with all applicable regulations of OCFS in order to provide the services set forth in Schedule A of this Agreement.

The Agency shall provide the services described in Schedule A of this Agreement at the principal location listed in Schedule A of this Agreement and shall provide the Department with written notification of the location(s) of any additional support services that are provided outside of the aforementioned address(s) in conjunction with the applicable child service plan.

The Department shall notify the Agency of the identity of the person(s) assigned Case Management responsibility for each child receiving Foster Care services from the Agency.

The Department shall notify the Agency of the identity of the person(s) assigned as the Child Protective Services Monitor for the child protective services recipients receiving Foster Care services from the Agency.

The Department shall determine, during the initial client eligibility process, the availability of any third party insurance resources upon placement of the child into Foster Care. Such process must be conducted pursuant to the Child Welfare Eligibility Manual issued by OCFS. When such resources are determined to be available, the Department shall properly code each case and provide the Agency with as much information as is available.

The Department shall provide the Agency with a roster each month of the children in the Department's custody placed with the Agency. This roster will also provide information on third party health insurance through the placement of a code in the column named "Other Insurance." The Agency must pursue all third party health insurance available to children in its care. If the Agency contracts with a health care provider, it must require that the

provider makes diligent efforts to determine if the Foster Children have third party coverage, and must attempt to utilize such coverage when applicable.

SECTION VII - BOOKS, RECORDS AND REPORTS

All case-specific information contained in the Agency's files must be held confidential by the Department and the Agency pursuant to the applicable provisions of the state law and any regulations promulgated there-under, including, but not limited to, sections 372 and 422 of the Social Services Law, section 2782 of the Public Health Law, and 18 NYCRR Parts 357, 423, 428, 431 and 466, as well as all applicable federal laws and regulations, including but not limited to, the Civil Rights Act of 1964. Such information must not be disclosed except as authorized by law and unauthorized disclosure may result in criminal and/or civil penalties (see section 422 (12) of the Social Services Law).

The records of individual recipients of services maintained by the Agency must be made available to the Department and OCFS upon request, in a form, the manner and time as required by the Department or OCFS.

The Department and the Agency shall comply with statutory and regulatory standards relating to disclosure of Foster Care information to birth parents of Foster Children, Foster Parents, pre-adoptive and adoptive parents and to current and former Foster Children to the extent authorized by law, including but not limited to, sections 373-a and 409-e of the Social Services Law and 18 NYCRR 357.3 and 428.8.

The Department or the Agency may release Foster Care information to a person, agency, or organization for purposes of a bona fide research project. Identifying information may not be made available unless it is absolutely essential to the research purpose and prior written approval has been issued by OCFS. Anyone given access to such information may not re-disclose such information except as otherwise permitted by law.

The Agency shall maintain financial books, records, and necessary supporting documents as required by OCFS. The Agency must use accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of the services provided under this Agreement. The Agency shall collect statistical data of a fiscal nature on a regular basis and to make fiscal and statistical reports at the times prescribed by and on forms supplied by OCFS.

Such financial and statistical records are subject to inspection, review, excerpts, transcription or audit by authorized county, state and/or federal personnel.

The Agency and its subcontractor(s) shall retain all books, records and other documents relevant to this Agreement for six (6) years after the Agency receives final payment for the services to which they relate, during which time authorized county, state and/or federal

auditors will be provided with full access to and the right to examine the same. In addition, the Agency and its subcontractor(s), must make available, upon written request, this Agreement, and books, documents, papers and records of the Agency or subcontractor(s) that are necessary to certify the nature and extent of such costs involved, to the Secretary of the United States Department of Health and Human Services, or upon request, to the New York State Office of the State Comptroller, New York Attorney General's Office, or any of their duly authorized representatives.

SECTION VIII - ACCOUNTABILITY

The Department shall establish methods to evaluate the provision of Foster Care services by the Agency pursuant to this Agreement. All provisions of this section are to be interpreted consistent with New York State law and applicable regulations. In implementing the foregoing, the Agency recognizes that the Commissioner of the Department, pursuant to statute, has ultimate responsibility for the protection and preservation of the welfare of all children within her jurisdiction and thus has the duty, ongoing throughout the term of this Agreement, to monitor the Agency with regard to the Foster Care services provided to the children referred hereunder.

The Agency agrees that program and/or facility review pertaining to the delivery of Foster Care services under this Agreement may be conducted at any reasonable time by qualified personnel from those local, state and federal agencies with the required legal powers and statutory authority to conduct such activities. Such reviews may include, but not be limited to, meetings with recipients of services, review of the Uniform Case Records including, but not limited to, all information in the CONNECTIONS case records, review of service policy and procedural issues, review of staffing and job descriptions, and meetings with staff directly or indirectly involved in the provision of Foster Care services.

The Department shall conduct an Agreement review with the Agency at least twice a year to discuss the Agency's services purchased by the Department. This review will include, but not be limited to, such items as frequency of contact and planning with families and significant others of Foster Children, scope of service plans and of achieving the goals stated therein, compliance with the state and federal laws, and the extent to which special mental health, remedial, tutorial and vocational services were provided after the Agency and the Department determined these services were necessary. These semi-annual Agreement reviews will include determination of the Agency's compliance with this Agreement.

If the Agency violates this Agreement, the Department may, after due written notice, take such actions or invoke such sanctions under this Agreement and any applicable regulations issued by OCFS, as it deems necessary.

The Agency must not make any subcontract for the performance of this Agreement without the prior written approval of the Department. The assignment of this Agreement, in whole or in part, or of any money due or to become due under this Agreement is void without the prior written approval of the Department. All authorized subcontractors are subject to federal and state requirements governing purchase of services contracts including, but not limited to, 18 NYCRR Part 405. The Agency is responsible for the performance of all subcontractor(s).

The Agency covenants and agrees that neither it nor any of its directors, officers, members, or employees has any interest, nor will they acquire any interest, directly or indirectly, which would substantially or adversely conflict in any manner or degree with the Agency's performance of this Agreement. The names and addresses of the members of the Board of Directors of the Agency are to be annexed to this Agreement.

SECTION IX – COMPLIANCE WITH LAW

The Agency represents and agrees to comply with all applicable federal laws, including, but not limited to, the requirements of the Civil Rights Act of 1964 as amended, the Age Discrimination Employment Act of 1967 as amended, the Federal Rehabilitation Act of 1973 as amended, the Howard M. Metzenbaum Multiethnic Placement Act of 1994 (P.L. 103-382) as amended by the Small Business Job Protection Act of 1996 (P.L. 104-188), the Indian Child Welfare Act of 1978 (P.L. 95-608) and Executive Order No. 11246 entitled "Equal Employment Opportunity" as amended by Executive Order No. 11375 and as supplemented in Department of Labor Relations, 41 CFR Part 60. The Agency also agrees to observe all applicable federal regulations contained in 28 CFR Part 41; 45 CFR Parts 74, 84, 93; 1355 and 1356.

The Agency, its subcontractors, and the Department shall execute and comply with Appendix A, *Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion*; Appendix B, *Certification Regarding Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions, from the Code of Federal Regulations*; and Appendix C, *Certification Regarding a Drug-Free Workplace*.

In addition, if the total cost of this Agreement is in excess of \$100,000, the Agency must comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended.

If the Agency expends \$500,000 or more in a year in federal funds from all sources, audits must be conducted as required by OMB Circular A-133.

SECTION X – TERMINATION OF AGREEMENT

This Agreement may be terminated by the mutual written agreement of the contracting parties.

This Agreement may be terminated by the Department, for cause, upon the failure to the Agency to comply with the terms and conditions of this Agreement, including the attachments hereto. The Department will give the Agency written notice specifying the Agency's failure.

In addition to the termination provisions set forth above, the Department has the right to terminate this Agreement, in whole or in part, if the Agency has failed, at any time, to comply with any applicable federal, state or local health, safety or fire code regulations; or in the event that any license, approval or certification of the Agency, required by federal, state or local government is revoked, not renewed, or otherwise not in full force or effect, or in the event that the Agency fails to secure a new such license, approval or certification during the term of this Agreement, if required.

Notice of termination will be given in writing specifying the reasons for termination and the effective date of termination. Such written notice will be delivered via registered or certified mail with return receipt requested or will be delivered by hand with receipt provided by the Agency. The Agency shall not incur any new obligations or to claim any expenses incurred after the effective date of the termination. The effective date of termination is not to be less than 30 days from the date of notice, unless substantial breach of contract is involved, in which case the effective date of termination may be immediate effective on delivery of the termination notice. In any event, the effective date of termination will not be later than this Agreement expiration date.

Upon termination or upon expiration of the term of this Agreement, the Department shall arrange for the transfer to another Agency of all children covered by this Agreement then serviced by the Agency.

The Agency must comply with all Department close-out procedures, including but not limited to: accounting for and refunding to the Department within six (6) months any overpayments which have been paid to the Agency pursuant to this Agreement; not incurring or paying any further obligation under this Agreement beyond the termination date; transmitting to the Department or its designee, on written request, copies of all books, records, papers, documents and materials pertaining to the financial details of any services provided under the terms of this Agreement; and transmitting to the Department or its designee, on written request, copies of all case-specific information and documentation concerning children in the care of the Agency. The Agency must comply with all close out

procedures of OCFS regarding Foster Care facilities as set forth in 18 NYCRR 476.2, and regarding foster boarding home programs, including but not limited to, the requirement to provide 90-day written advance notice of the proposed closure of a Foster Care facility or program. The Agency must also comply with the requirements set forth in 18 NYCRR 441.7(f) regarding the proper transfer of case records and the submission of a timely plan relating thereto to OCFS.

SECTION XI – INDEMNIFICATION AND INSURANCE

The Department and the Agency agree that the Agency is an Independent Contractor and is not an employee of the Department or the State of New York. The Agency agrees to indemnify the County, the Department and the State of New York for any loss the County, the Department, or the State of New York may suffer if such losses result from the claims of any person or organization (excepting only the Department) injured by the negligent acts or omissions of the Agency, its officers and/or its employees or subcontractor(s). Furthermore, the Agency agrees to indemnify, defend, and save harmless the State of New York, the Department, the County and their officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, and any other persons, firm, or corporations furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement, and from all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Agency in the performance of this Agreement, and against any liability, including costs and expenses, for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, or use or disposition of any data furnished under this Agreement, or based on any libelous or other unlawful matter contained in such data or written materials in any form produced pursuant to this Agreement.

The Agency further agrees to procure and maintain in force, for the duration of this Agreement, insurance in types and in the amounts as determined by the County and specified in Appendix B attached to this Agreement. Such coverage must be identified and entered upon a Standard Insurance Certificate or its acceptable substitute and be signed by the Agency's insurance company, agent or broker.

The completed and signed Insurance Certificate is subject to approval by the Oneida County Department of Law and upon approval will be attached to this Agreement and become a part hereof.

The Agency further agrees that the Department has the right to take whatever action it deems appropriate, including, but not limited to, the removal of the Agency from the rotation list, the removal of clients, the cessation of client Referrals, and termination of this Agreement, if the Agency fails to submit a completed and signed Standard Insurance

Certificate or its acceptable substitute, which is subsequently approved by the Oneida County Department of Law, prior to the expiration of its insurance coverage.

IN WITNESS HEREOF:

The parties hereto have executed this Agreement as of the day and year first above written.

Oneida County:

Anthony J. Picente, Jr., County Executive

Date

Department of Social Services:

Colleen Fahy-Box, Interim Commissioner

Date

Approved:

Maryangela Scalzo, Assistant County Attorney

Date

House of the Good Shepherd

Brian, McKee, Executive Director

Date

STATE OF NEW YORK)
COUNTY OF _____)

On this _____ day of _____, 20__,

personally came _____ before me, to be known, who being duly sworn, did depose and say that (s)he resides in _____; that (s); he is an (the) _____ of the corporation described herein and which executed the foregoing instrument; that (s)he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was affixed by order of the Board of Directors of said corporation; and that (s)he signed (her/his name thereto by like order.

My Commission expires

Appendix A

Rev.4/15/05

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

A. By signing and submitting this contract or contract amendment, contractor certifies that the contractor:

(1). Agrees that, a) By signing and submitting this proposal, the prospective primary applicant is providing the certification set out below. b) The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction. c) The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. d) The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. e) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Office of Children and Family Services for assistance in obtaining a copy of those regulations. f) The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4 debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. g) The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction" provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. h) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4 debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs. i) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings. j) Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

(2). Certifies to the best of its knowledge and belief, that the applicant and its principals: a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency; b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity

(Federal, State, or local) with commission of any of the offenses enumerated in paragraph 19A. 2. (1) b) of this certification; and d) Have not within a three-year period preceding this application/proposal had on or more public transactions (Federal, State, or local) terminated for cause or default. (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

B. (1) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions Instructions for Certification. a) By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below. b) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. c) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances. d) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. e) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. f) The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. g) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs. h) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings. i) Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

(2) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. b) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Appendix B

Rev. 4/15/05

Certification Regarding Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions

By signing and submitting this contract or contract amendment, contractor certifies that the contractor:

Certifies that Title 31, United States Code, Section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," generally prohibits recipients of Federal grants and cooperative agreements from using Federal (appropriated) funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a SPECIFIC grant or cooperative agreement. Section 1352 also requires that each person who requests or receives a Federal grant or cooperative agreement must disclose lobbying undertaken with non-Federal (non-appropriated) funds. The requirements apply to grants and cooperative agreements EXCEEDING \$100,000 in total costs (45 CFR Part 93). The undersigned (authorized official signing for the applicant organization) certifies, to the best of his or her knowledge and belief that: (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. (2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. (If needed, Standard Form-LLL, "Disclosure of Lobbying Activities," its instructions, and continuation sheet are included at the end of this application form.) (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Appendix C

Rev.4/15/05

Certification Regarding a Drug-Free Workplace

(A). 1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below. 2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. 3. For grantees other than individuals, Alternate I applies. For grantees who are individuals, Alternate II applies. 5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements. 6. Workplace identifications must include the actual address of buildings (or parts of buildings) or sites where work under the grant takes place. Categorical descriptions may be used (e.g. all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios). 7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five). 8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules: Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15); Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes; Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance; Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g. volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

(B). Alternate I (Grantees Other Than Individuals). 1. The grantee certifies that the applicant will, or will continue to, provide a drug-free workplace in accordance with 45 CFR Part 76 by: (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition; (b) Establishing an ongoing drug-free awareness program to inform employees about: (1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace; (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above; (d) Notifying the employee in the statement required by paragraph (a) above, that, as a condition of employment under the grant, the employee will-(1) Abide by the terms of the statement; and (2) Notify the employer in writing of his or her conviction for violation of a criminal drug status occurring in the workplace no later than five calendar days after such conviction; (e) Notify the agency in writing within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant; (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph

(d)(2), with respect to any employee who is so convicted- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f). For purposes of paragraph (e) regarding agency notification of criminal drug convictions, the DHHS has designated the following central point for receipt of such notices: Division of Grants Policy and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C., 20201.

(C). Alternate II (Grantees Who Are Individuals). 1. The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; 2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

Schedule A. PROGRAM NARRATIVE

(Instructions to Agency) The following narrative should be completed by the Agency, in order to present an accurate description of the agency's programs. This narrative will be used to substantiate claims for federal reimbursement.

A. Program Narrative

Agency's Name and Address

Foster Care Programs Provided by Agency

(Institution, group residence, Group Homes, Agency Boarding Homes, Foster Family Boarding Homes, educational services, etc. Include details on all programs, including goals and objectives.)

List of locations of all agency facilities to be used in providing services.

Persons served (ages, sex, geographic limitation, if any; number to be served by program, etc.).

Services of agency programs: include description of all those services which are provided, including those defined in the Consolidated Services Plan (CSP), as well as any other services, such as day services, educational services, medical care and adoption services. Indicate types and numbers of staff providing services.

Self-evaluation Procedures – description of agency procedures for evaluating program effectiveness.

Admission Policies and Procedures – description of Referral process, agency requirements for reports, pre-placement visits, etc.

Schedule B. REIMBURSEMENT RATES

The following schedule of Foster Care payments presents maintenance, medical, and education rates which will be paid under this contract.

Program Name (List each program name and type, e.g., Children's House – HTP Institution)	Maintenance Per Diem	Effective Date (Maintenance Per Diem)	Medical Per Diem	Effective Date (Medical Per Diem)

Education Rate (tuition)

(Include applicable tuition rates either calculated or approved for reimbursement by the New York State Education Department pursuant to Article 81 or other applicable statutes of Education Law governing tuition reimbursement for children placed in child care Institutions. Also, attach a school calendar.)

Special act school district _____
 On-campus school _____
 Other school program _____

The total cost of this Agreement may not exceed \$36,000,000.

Schedule C: DEPARTMENT OPTIONS

[The Department is to indicate which entity will be responsible for each task]

Contract Task / Responsibility	Department	Agency with Case Planning Responsibility	Agency of Associated Caseworker
Family Services Intake (FSI)	X		
Completion of FSI	X		
# of days for Agency submission of FSI: (insert #)	5		
# of days for Dept. acceptance of FSI: (insert #)	5		
Completion of CPS safety and risk assessment – Initial Family Assessment and Services Plan (FASP)	X		
Completion of CPS safety and risk assessment - Comprehensive/Reassessment FASPs		X	
Required completion of plan amendment for a change to visiting plan (Department option)		X	
Convene and hold Service Plan Review conference		X	
Arrange and hold Case Consultation		X	X
Identification of Third Party Reviewer for Service Plan Review (SPR)		X	
Prepare Permanency Hearing Report		X	
Number of days for Agency to accept/reject initial Referral of child: (insert #)		Immediate-10situation based	
Set initial child program choice(s) and a permanency planning goal	X		
		X	
Foster Care Activities			
Continuing exploration and development of permanency alternatives for child over 14		X	
Arrangement for/provision of life skill services for child over 14		X	
Require child participation in design of activities to prepare for transition to self-sufficiency.		X	
Issue monthly stipend payments to child, 16 years or older, with a Planned Permanency Goal (PPG) of discharge to Another Planned Living Arrangement with a Permanency Resource.	X		
Assistance to establish contact with service providers and community resources	X	X	
Provision of written 90-day notice of discharge	X	X	
Services and supervision during trial discharge	X	X	
Post-discharge supervision	X	X	
Transition plans	X	X	X

Credit reports		X	X
	X		
Legal Activities			
File petition for permanency hearing Complete Permanency Hearing Report File Permanency Hearing Report	X	X	
1089 Orders: Follow through on the necessary legal aspects of legally freeing a child for adoption.	X		
	X	X	X
Adoption Activities			
Identification of appropriate adoptive home	X	X	
Recording of information (FASP, and movement, legal, adoption activities) in CCRS until implementation of CONNECTIONS Build 19	X		

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 7, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

FN 20 18-251

HEALTH & HUMAN SERVICES

Dear Mr. Picente:

WAYS & MEANS

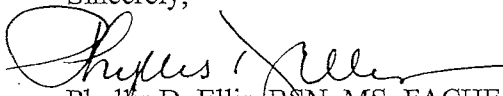
Attached are two (2) copies of an Agreement between Oneida County through its Health Department and Hear 2 Learn Audiology and Speech Language Pathology, PLLC. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities. The term "related services" includes, but is not limited to, services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

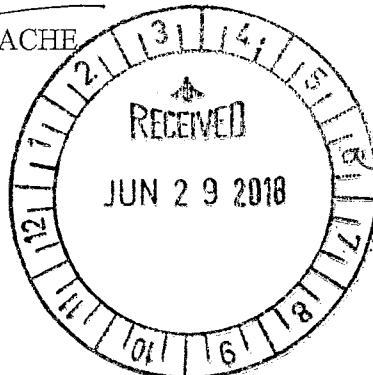
The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected total for three years is \$100,000 and is an estimate.

If this meets with your approval, please forward to the Board of Legislators.


Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health

CM



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Date 6-29-18

Oneida Co. Department: Health

Competing Proposal X
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Hear 2 Learn Audiology and Speech Language Pathology,
PLLC
6575 Kirkville Rd Suite 1
East Syracuse, NY 13057

Title of Activity or Service: Preschool Related Services

Proposed Dates of Operation: July 1, 2018 to June 30, 2020

Client Population/Number to be Served: Eligible preschool children in Oneida County with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, New York State requires that counties are to provide payment for related services rendered to eligible preschool aged children with disabilities.
- 2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of Education Law.
- 3) **Program Design and Staffing** NA

Total Funding Requested: \$100,000 **Account#** **A2960.1953**
Rev act A3277

Oneida County Dept. Funding Recommendation: \$100,000

Proposed Funding Sources (Federal \$/ State \$/County \$): State pays 59.5% County pays 40.5%

Cost Per Client Served: NA

Past Performance Data: NA

O.C. Department Staff Comments: Annual expenditure is estimated as \$33,333.33



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the “County,” and **HEAR 2 LEARN AUDIOLOGY AND SPEECH LANGUAGE PATHOLOGY, PLLC**, a domestic professional service limited liability company organized and existing under the laws of the State of New York, having its principal office located at 6575 Kirkville Rd Suite 1 East Syracuse, NY 13057, hereinafter referred to as the “Contractor.”

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County’s Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child’s resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as “Appendix A.” Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the “payer of last resort.” Nothing herein shall preclude the child’s enrollment and initiation of services in accordance with the Board’s Notice of Determination. A copy is to remain in the Contractor’s file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter “SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter “CPSE”) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. **Speech pathologists** shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current **ICD code**. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be

permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.

- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
- e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
- f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
- h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
- i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
- j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
- k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
- l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
- m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
- n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
- o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that its employees and agents shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor or its employees and agents under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

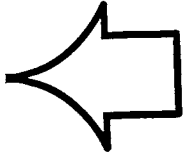
20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

21. ENTIRE AGREEMENT

The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

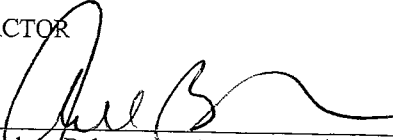
IN WITNESS WHEREOF, the parties hereto have executed this Contract.



ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY: 
Arlene Balestra Marko Balestra-Marko, Au.D.
Hear 2 Learn Audiology and Speech Language
Pathology, PLLC

DATE: _____

DATE: 6/20/18

Approved

BY: _____
Raymond F. Bara
Assistant County Attorney

**APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE**

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
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Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
 - i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

- 1) Abide by the terms of the statement; and
- 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 7, 2018

FN 20 18-252

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

Dear Mr. Picente:

HEALTH & HUMAN SERVICES
WAYS & MEANS

Attached are two (2) copies of an Agreement between Oneida County through its Health Department and 3 Circles Therapy: OT, PT, SLP Services. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

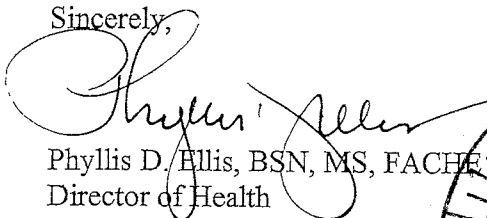
Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities.

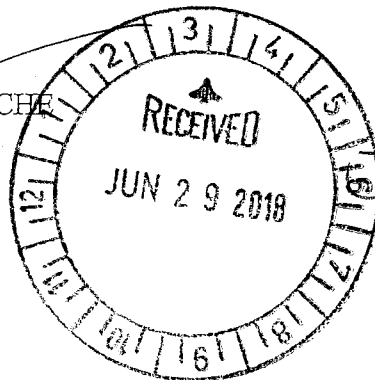
The term "related services" includes, but is not limited to, services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected cost per year is \$ 127,352.00.

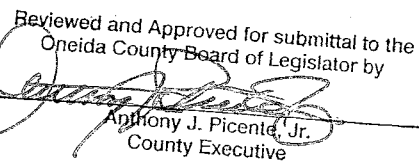
If this meets with your approval, please forward to the Board of Legislators.

Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Date 6-29-18

CM

Oneida Co. Department: Health

Competing Proposal X
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor:

3 Circles Therapy: OT, PT, SLP Services
23 Mexico Street
Camden, NY 13316

Title of Activity or Service:

Preschool Related Services

Proposed Dates of Operation:

July 1, 2018 to June 30, 2020

Client Population/Number to be Served:

Eligible preschool children in Oneida
County with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, New York State requires that counties are to provide payment for related services rendered to eligible preschool aged children with disabilities.
- 2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of Education Law.
- 3) **Program Design and Staffing** NA

Total Funding Requested: \$382,056 **Account # A2960.1953**
Rev. # A3277

Oneida County Dept. Funding Recommendation: \$382,056

Proposed Funding Sources (Federal \$/ State \$/County \$): State pays 59.5% County pays 40.5%

Cost Per Client Served: N/A

Past Performance Data: 2017 expenditure \$101,154.00, first quarter of 2018 shows 25.9% increase

O.C. Department Staff Comments: Annual estimate is \$127,352.00.



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," and **3 CIRCLES THERAPY: OT, PT, SLP SERVICES, PLLC**, a domestic professional service limited liability company organized and existing under the laws of the State of New York, having its principal office located at 23 Mexico Street, Camden, New York 13316, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child's resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as "Appendix A." Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the “payer of last resort.” Nothing herein shall preclude the child’s enrollment and initiation of services in accordance with the Board’s Notice of Determination. A copy is to remain in the Contractor’s file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter “SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter “CPSE”) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. Speech pathologists shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current ICD code. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be

permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.

- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
- e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
- f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
- h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
- i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
- j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
- k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
- l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
- m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
- n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
- o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that its employees and agents shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor or its employees and agents under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

ENTIRE AGREEMENT

The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

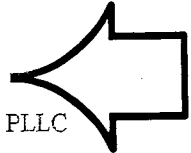
IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY: Alison Eisnor-Pitcher
Alison Eisnor-Pitcher
3 Circles Therapy: OT, PT, SLP Services, PLLC



**SIGN
& DATE**

DATE: _____

DATE: 6/25/18

Approved

BY: _____
Raymond F. Bara, Assistant County Attorney

**APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE**

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
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Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

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NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through July 15, 2016.

Selected Entity Name: 3 CIRCLES THERAPY: OT, PT, SLP SERVICES, PLLC

Selected Entity Status Information

Current Entity Name: 3 CIRCLES THERAPY: OT, PT, SLP SERVICES, PLLC

DOS ID #: 4393193

Initial DOS Filing Date: APRIL 24, 2013

County: ONEIDA

Jurisdiction: NEW YORK

Entity Type: DOMESTIC PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

3 CIRCLES THERAPY: OT, PT, SLP SERVICES, PLLC
23 MEXICO STREET
CAMDEN, NEW YORK, 13316

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate.](#)

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
APR 24, 2013	Actual	3 CIRCLES THERAPY: OT, PT, SLP SERVICES, PLLC

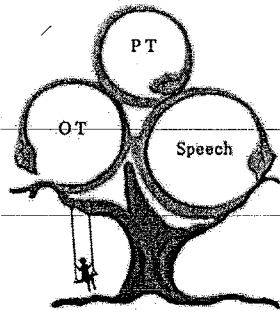
A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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3 Circles Therapy

3 Circles Therapy: OT, PT, SLP Services, PLLC

23 Mexico Street

Camden, NY 13316

(315) 820-8014

home@3circlestherapy.com

April 18, 2018

Re: Proposal #2018-227

3 Circles Therapy: OT, PT, SLP Services, PLLC

To Offer Contractual Services to the Oneida County Health Department Related Services including Occupational Therapy, Physical Therapy, and Speech and Language Pathology services.

Contractor will be paid at rate set by state of New York.

References:

Reference #1: Rosanne Lewis
Madison County Health Department
P.O. Box 605
Wampsville, NY 13136
(315) 366-2365

Reference # 2: Tammy Thompson
Oswego County Health Department
70 Bunner Street
Oswego, NY 13126
(315) 349-3510

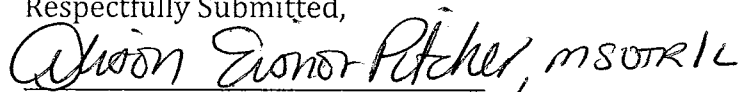
Reference #3: Sebrina Sebastian
Rome City School District CPSE Secretary
409 Bell Road
Rome, NY 13440
(315) 338-6507

Reference #4: Kathy Grow
VVS Central Schools CPSE Secretary
5275 State Route 31
Verona, NY 13478
(315) 829-2520

Profession Company qualifications:

- We are a therapist operated PLLC since April 24, 2013; however the owners, many employees, and several contracted service providers have been providing services to children in Oneida county for many years prior to the organization of this agency
- We provide OT, PT & SLP services (speech therapy services are provided Under the Direction of a SLP)
- All therapists are licensed within his or her profession with the New York State Department of Professions
- All therapist have been cleared through the SCR

Respectfully Submitted,



Alison Eisnor-Pitcher, MSOTR/L

Co-owner of 3 Circles Therapy

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 7, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

FN 20

18253

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

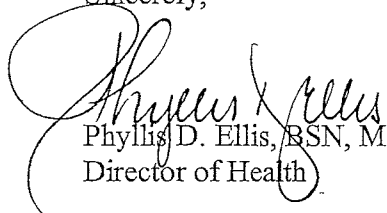
Attached are two (2) copies of an Agreement between Oneida County through its Health Department and Renee Snyder. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

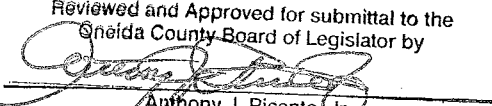
Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities. The term "related services" includes, but is not limited to services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected total for three years is \$62,424 and is based on previous expenditures.

If this meets with your approval, please forward to the Board of Legislators.

Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health

Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
County Executive
Date 6-29-18

CM



Oneida Co. Department: Health

Competing Proposal X
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Renee Snyder
19 Westminster Rd.
Utica, NY 13501

Title of Activity or Service: Preschool Related Services

Proposed Dates of Operation: July 1, 2018 to June 30, 2020

Client Population/Number to be Served: Eligible preschool children in Oneida County with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, New York State requires that counties are to provide payment for related services rendered to eligible preschool aged children with disabilities.
- 2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of Education Law
- 3) **Program Design and Staffing** NA

Total Funding Requested: \$62,424 **Account# A2960.1953**
Rev. A3277

Oneida County Dept. Funding Recommendation: \$62,424

Proposed Funding Sources (Federal \$/ State \$/County \$): State pays 59.5% County pays 40.5%

Cost Per Client Served:

Past Performance Data: 2017 expenditure was \$20,808. The first quarter of 2018 shows little change.

O.C. Department Staff Comments: Estimated annual expenditure is \$20,808.



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," and **RENEE SNYDER**, located at 19 Westminster Road, Utica, NY 13501, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child's resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as "Appendix A." Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the “payer of last resort.” Nothing herein shall preclude the child’s enrollment and initiation of services in accordance with the Board’s Notice of Determination. A copy is to remain in the Contractor’s file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter “SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter “CPSE”) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. Speech pathologists shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current ICD code. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be

- permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
 - e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
 - f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
 - g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
 - h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
 - i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
 - j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
 - k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
 - l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
 - m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
 - n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
 - o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor shall not be considered employee of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with her status as an independent contractor, covenants and agrees that she will conduct herself in accordance with such status, that she will neither hold herself out as, nor claim to be, an officer or employee of the County by reason thereof and that she will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that she is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that she shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

21. ENTIRE AGREEMENT

The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

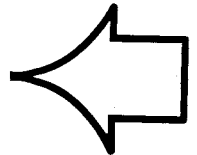
IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY: Renee Snyder PT
Renee Snyder



& DATE

DATE: _____

DATE: 6/26/18

Approved

BY: _____
Raymond F. Bara
Assistant County Attorney

**APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE**

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE
PER HALF-		HOUR BLOCK

Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	
RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE	
Assistive Technology Services	\$25.00	
Audiology	\$25.00	
Counseling Services	\$25.00	
Occupational Therapy	\$25.00	
Physical Therapy	\$25.00	
Speech Therapy	\$25.00	
Teacher of Hearing Impaired	\$25.00	
Teacher of Visually Impaired	\$25.00	

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
 - ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
 - c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
 - i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 7, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

FN 20 18-254

HEALTH & HUMAN SERVICES

Dear Mr. Picente:

WAYS & MEANS

Attached are two (2) copies of an Agreement between Oneida County through its Health Department and The Network for Children's Speech, Occupational and Physical Therapy, LLC. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities.

The term "related services" includes, but is not limited to services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

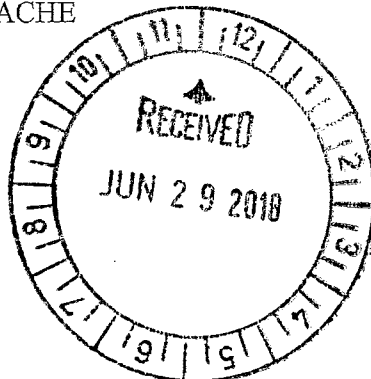
The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected total is \$168,003 per year based on previous expenditures and is an estimate, for a three-year total of \$504,009.

If this meets with your approval, please forward to the Board of Legislators.

Sincerely,

Phyllis D. Ellis, BSN, MS, FACHE
Director of Health

CM



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
County Executive

Date 6-29-18

Oneida Co. Department: Health

Competing Proposal X
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: The Network for Children's Speech, Occupational
and Physical Therapy, LLC.
171 Intrepid Lane
Syracuse, NY 13205

Title of Activity or Service: Preschool Related Services

Proposed Dates of Operation: July 1, 2018 to June 30, 2020

Client Population/Number to be Served: Eligible preschool children in Oneida
County with disabilities

Summary Statements

1) **Narrative Description of Proposed Services:** Under Section 4410 of the New York
State Education Law and in compliance with Part 200 of the Regulations of the
Commissioner of Education of the State of New York, New York State requires that
counties are to provide payment for related services rendered to eligible preschool
aged children with disabilities.

2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of
Education Law

3) **Program Design and Staffing** NA

Total Funding Requested: \$504,009 **Account** **A2960.1953**
Rev: A3277

Oneida County Dept. Funding Recommendation: \$504,009

Proposed Funding Sources (Federal \$/ State \$/County \$): State: 59.5% County: 40.5%

Cost Per Client Served:

Past Performance Data: 2017 expenditure \$208,647.00. The first quarter of 2018 shows
decrease of 19.48%

O.C. Department Staff Comments: Annual estimated expense is \$168,003



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," and **THE NETWORK FOR CHILDREN'S SPEECH, OCCUPATIONAL AND PHYSICAL THERAPY, LLC**, a domestic professional service limited liability company organized and existing under the laws of the State of New York, having its principal office located at 171 Intrepid Lane, Syracuse, NY 13205, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child's resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as "Appendix A." Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the “payer of last resort.” Nothing herein shall preclude the child’s enrollment and initiation of services in accordance with the Board’s Notice of Determination. A copy is to remain in the Contractor’s file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter “SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter “CPSE”) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. Speech pathologists shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current ICD code. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be

- permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
 - e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
 - f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
 - g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
 - h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
 - i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
 - j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
 - k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
 - l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
 - m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
 - n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
 - o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that its employees and agents shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor or its employees and agents under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

21. ENTIRE AGREEMENT

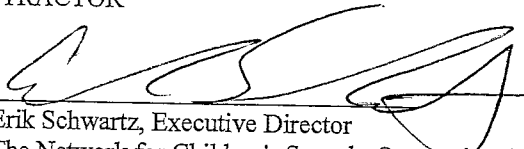
The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum, and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this contract. No wavier, alterations or modifications of and provisions of this contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY:  _____
Erik Schwartz, Executive Director
The Network for Children's Speech, Occupational and
Physical Therapy, LLC.

DATE: _____

DATE: 6/19/18

Approved

BY: _____
Raymond F Bara
Assistant County Attorney

**APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE**

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
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Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 7, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

FN 20 18-255

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

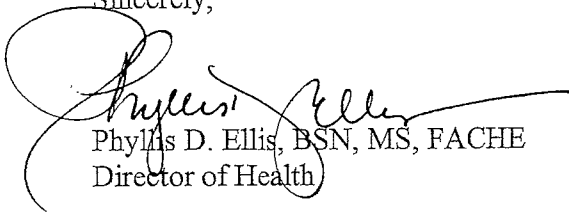
Attached are two (2) copies of an Agreement between Oneida County through its Health Department and Rome City School District. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

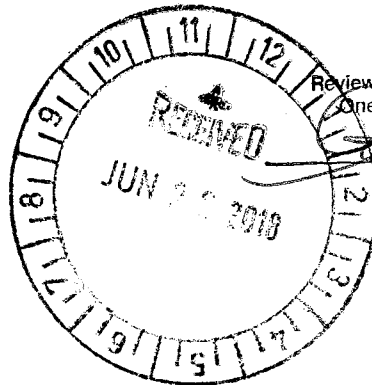
Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities. The term "related services" includes, but is not limited to, services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected total for three years is \$27,000 and is an estimate.


If this meets with your approval, please forward to the Board of Legislators.

Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Date 6/28/18

Oneida Co. Department: Health

Competing Proposal X
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Rome City School District
409 Bell Road
Rome, NY 13440

Title of Activity or Service: Preschool Related Services

Proposed Dates of Operation: July 1, 2018 to June 30, 2020

Client Population/Number to be Served: Eligible preschool children in Oneida County with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, New York State requires that counties are to provide payment for related services rendered to eligible preschool aged children with disabilities.
- 2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of Education Law
- 3) **Program Design and Staffing** NA

Total Funding Requested: \$27,000 **Account A2960 1953 Rev act A3277**

Oneida County Dept. Funding Recommendation: \$27,000

Proposed Funding Sources (Federal \$/ State \$/County \$): State pays 59.5% County pays 40.5%

Cost Per Client Served: NA

Past Performance Data: 2017 expenditure was \$208,647.00. The first quarter of 2018 shows a decrease of 19.48%

O.C. Department Staff Comments: Expected annual expenditure is \$9,000 based on previous expenditures.



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," and **ROME CITY SCHOOL DISTRICT**, a City School district organized and existing under the laws of the State of New York, having its principal office located at 409 Bell Road, Rome, New York 13440, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child's resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as "Appendix A." Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the “payer of last resort.” Nothing herein shall preclude the child’s enrollment and initiation of services in accordance with the Board’s Notice of Determination. A copy is to remain in the Contractor’s file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter “SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter “CPSE”) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. Speech pathologists shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current ICD code. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be

- permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
 - e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
 - f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
 - g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
 - h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
 - i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
 - j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
 - k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
 - l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
 - m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
 - n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
 - o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Makeup sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that its employees and agents shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor or its employees and agents under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

21. ENTIRE AGREEMENT


The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

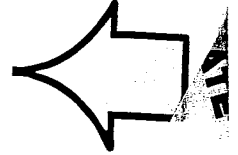
IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY: 
Paul Fitzpatrick
President, Board of Education



DATE: _____

DATE: 6/20/18

Approved

BY: _____
Raymond F. Bara
Assistant County Attorney

**APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE**

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
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Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
 - i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 7, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

FN 20 18-256

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

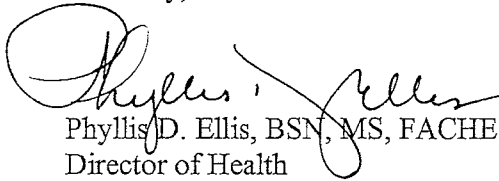
Attached are two (2) copies of an Agreement between Oneida County through its Health Department and Speech-Language Therapy of CNY, LLC. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

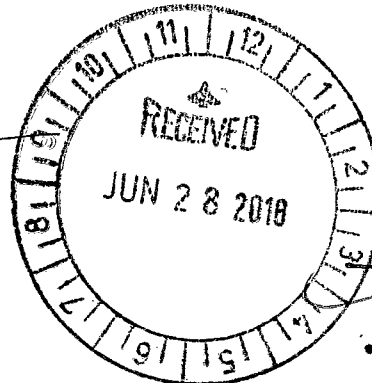
Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities. The term "related services" includes, but is not limited to services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected total for three years \$100,000 and is an estimate.

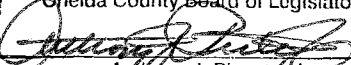
If this meets with your approval, please forward to the Board of Legislators.

Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Date 6-28-18

CM

Oneida Co. Department: Health

Competing Proposal X
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Speech-Language Therapy of CNY, LLC
4266 Acme Road
Frankfort, NY 13340

Title of Activity or Service: Preschool Related Services

Proposed Dates of Operation: July 1, 2018 to June 30, 2020

Client Population/Number to be Served: Eligible preschool children in Oneida County with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, New York State requires that counties are to provide payment for related services rendered to eligible preschool aged children with disabilities.
- 2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of Education Law
- 3) **Program Design and Staffing** NA

Total Funding Requested: \$100,000 **Account#** **A2960.1953**
Rev act A3277

Oneida County Dept. Funding Recommendation: \$100,000

Proposed Funding Sources (Federal \$/ State \$/County \$): State pays 59.5% County pays 40.5%

Cost Per Client Served: NA

Past Performance Data: NA

O.C. Department Staff Comments: Annual expenditure estimated as \$33,333.33



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," and **SPEECH-LANGUAGE THERAPY OF CENTRAL NEW YORK, LLC**, a domestic professional service limited liability company organized and existing under the laws of the State of New York, having its principal office located at 4266 Acme Road, Frankfort, NY 13340, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child's resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as "Appendix A." Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the “payer of last resort.” Nothing herein shall preclude the child’s enrollment and initiation of services in accordance with the Board’s Notice of Determination. A copy is to remain in the Contractor’s file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter “SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter “CPSE”) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. **Speech pathologists** shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current **ICD code**. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be

- permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
 - e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
 - f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
 - g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
 - h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
 - i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
 - j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
 - k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
 - l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
 - m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
 - n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
 - o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that its employees and agents shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor or its employees and agents under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

21. ENTIRE AGREEMENT

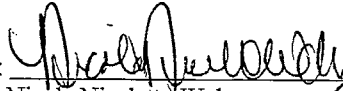
The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY:  _____
Nicole Nicolette-Walz
Speech-Language Therapy of Central New York, LLC



DATE

DATE: _____

DATE: 6/20/16 _____

Approved

BY: _____
Raymond F. Bara
Assistant County Attorney

APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
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Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.

- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

- 1) Abide by the terms of the statement; and
- 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 1, 2018

FN 20 18-257

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

HEALTH & HUMAN SERVICES
WAYS & MEANS

Dear Mr. Picente:

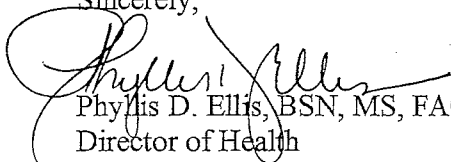
Under section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, municipalities are mandated to provide payment for transportation services rendered to preschool aged children classified as disabled.

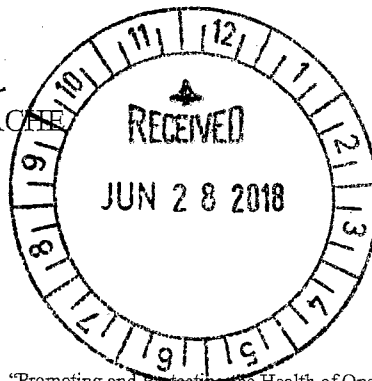
Attached are three (3) copies of a letter that exercises the second and final option from an Agreement between Oneida County through its Health Department and Douglas C. Paine, doing business as Paine Bus Service. The original Agreement was effective from September 1, 2014 through August 31, 2017, while the first option extended the terms of the original agreement from September 1, 2017 through August 31, 2018. The attached letter extends the terms for the reimbursement of transportation services by Paine Bus Services for an additional year, which includes the period from September 1, 2018 through August 31, 2019.

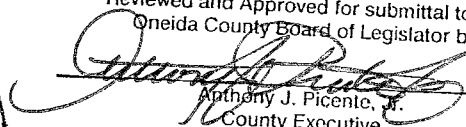
The transportation of preschool aged children with disabilities is a New York State mandated program. We anticipate the cost of the contract will not exceed \$175,000.00 for the above stated period of time. Oneida County is responsible for 40.5 % of the expenses and the remaining 59.5% is reimbursed by New York State.

I respectfully request that you sign this letter in order to exercise this option for an additional year of transportation services to preschool aged children through Paine Bus Service.

Sincerely,


Phyllis D. Ellis, BSN, MS, F.A.C.H.E.
Director of Health



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
County Executive
Date 6-28-18

CM

Oneida Co. Department: Public Health

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other X

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Douglas C. Paine
d/b/a Paine Bus Service
5644 Stokes-Lee Center Road
Lee Center, NY 13363

Title of Activity or Service: Transportation services for Preschool Students classified with disabilities

Proposed Dates of Operation: September 1, 2018 to August 31, 2019
(2nd Renewal Period)

Client Population/Number to be Served: Preschool Students with Disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Reference Bid #1712 for transportation services provided in accordance with Section 119-0 of the General Municipal Law and Section 236 of the Family Court Act. Original Contract #015041 contains an option for two additional one year renewals. Oneida County Health Department elects to exercise that option.
- 2) **Program/Service Objectives and Outcomes:** Provision of bus service transportation for eligible students in order to access the delivery of preschool educational services as required by NYS Education Law.
- 3) **Program Design and Staffing:** The Oneida County Health Department contracts with providers who are qualified to provide services according to Section 4410 of Education law, Part 200 Regulations of the Commissioner of Education, New York State Education Department Individual and Disabilities Act of 1990, Title 34, Part 300 of the Code of Federal Regulations.

Total Funding Requested: \$175,000

Account # A2960.4956

Oneida County Dept. Funding Recommendation: \$175,000

Proposed Funding Sources (Federal \$/ State \$/County \$): County: \$70,875
State: \$104,125

Cost Per Client Served: N/A

Past Performance Data: 2017-2018 term expenses were \$175,532.08 or \$14,627.67 monthly.

O.C. Department Staff Comments: N/A



ONEIDA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

ANTHONY J. PICENTE, JR.
County Executive
ce@ocgov.net

June 7, 2018

Douglas C. Paine
Paine Bus Service
5644 Stokes-Lee Center Road
Lee Center, New York 13363

Re: Exercise of Oneida County's Option to Extend
Contract for Transportation Services for
Preschool Children with Disabilities

Dear Mr. Paine:

Oneida County has a contract with you, operating as Paine Bus Service, under which Paine Bus Service provides transportation services for preschool children with disabilities. The term of that contract is from September 1, 2014 through August 31, 2017. The contract also contains a provision, through which Oneida County has options to extend the contract for two (2) periods of one (1) year each, under all of the terms and conditions of the original contract. Oneida County already exercised its first option, which is effective until August 31, 2018. By this letter, Oneida County exercises its second and final option, thereby extending the original contract for an additional year under all of the terms and conditions of the original contract.

This contract extension shall be in effect from September 1, 2018 through August 31, 2019.

Regarding reimbursement, since the original contract does not address reimbursement for this extension, the Oneida County Health Department expects that the total reimbursement for the term of the extension shall not exceed \$175,000.00.

Sincerely,

Anthony J. Picente, Jr.
Oneida County Executive



ONEIDA COUNTY AGREEMENT

THIS AGREEMENT, made the 1st day of September 2014, by and between the **COUNTY OF ONEIDA**, a municipal corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 800 Park Avenue, Utica, New York, 13501, hereinafter called "**County**", and **PAINE BUS SERVICE**, a domestic corporation, organized and existing under the laws of the State of New York with its place of business at 5644 Stokes-Lee Center Road, Lee Center, New York 13363, hereinafter called "**Vendor.**"

WITNESSTH

That for and in consideration of the agreements hereinafter mentioned, the vendor hereby agrees with the County to commence and perform the services and provide the materials described in:

**Bid # 1712- Transportation Services for Preschool Children with Disabilities
September 1, 2014 through August 31, 2017**

For the amount based on a "School Bus and Driver Assistant and/or Sedan and Driver Assistant" for either or both of a round trip or a full day, as designated from time to time by the County, and as specified in the attached approved Bid Proposal Documents, hereafter known as "Exhibit A," and at its own proper cost and expense to furnish all the necessary materials, equipment, machinery, tools, superintendence, labor, insurance, and other accessories necessary to perform said service in accordance with the conditions and prices stated in the proposal, general and supplementary conditions of the specifications and qualifications set forth in any addendum to the contract and contract documents therefore as prepared by the Oneida County Department of Purchasing herein entitled the "Purchaser" all of which are made a part hereof and collectively evidence and constitute the Agreement.

For the avoidance of doubt, the Bid Specifications are designated as **Bid # 1712- Transportation Service for Preschool Children with Disabilities** (the "Bid Specifications"), and each and every term and condition contained therein are hereby incorporated into and made a part of this Agreement by this reference.

Upon all the terms and conditions stated in the Bid Specifications, the Vendor hereby agrees to provide transportation services for the designated sites in the attached Bid Proposal Form, attached hereto and made part hereof, and further agrees to perform such services in



accordance with terms and conditions set forth in this Agreement, and related specifications, during the September 1, 2014 through August 31, 2017 term.

The County agrees to pay the vendor in current funds for the performance of the contract subject to additions and deductions, as provided in the conditions of the specifications heretofore mentioned, and to make payments on account thereof as provided in said General Conditions.

The vendor may not assign, transfer, convey, sublet or otherwise dispose of the Agreement or of his right, title or interest therein, or his power to execute the Agreement, to any other person or corporation without the previous consent, in writing, by the County.


The vendor agrees to obtain the necessary insurance coverage in accordance, and in compliance, with the specifications set forth in the Bid Specifications.

Pursuant to Oneida County Board of Legislators Resolution No. 249 of 1999, the Vendor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all wastes and recyclables generated within the Authority's service area by performance of this contract by the vendor and/or any sub-vendors.


The vendor agrees to make no claim for damages for delays occasioned by an act or omission of the County of Oneida, State of New York.

IN WITNESS WHEREOF, the respective parties herein have hereunto set their hands on the day and year first written above.

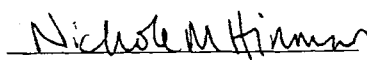
FOR THE COUNTY:


Anthony J. Picente, Jr.
County Executive

FOR THE VENDOR:


Douglas Paine
Paine Bus Service

Approved as to Form


Nichole M. Hinman, Esq.
Assistant County Attorney

ADDENDUM

THIS ADDENDUM, entered into on this 1st day of September 2014 between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

WHEREAS, COUNTY and CONTRACTOR have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which COUNTY is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. Executor or Non-Appropriation Clause.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.

Pursuant to Oneida County Board of Legislators Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
 2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
 - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and
 2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:

- a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- b. Establishing an on-going drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. The Contractor's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation, and employee assistance program; and
 4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
- d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
 1. Abide by the terms of the statement; and
 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
- f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;
 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).

2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.
Place of Performance (street, address, city, county, state, zip code).
-

- d. **Drug-Free Workplace (Contractors who are individuals).** As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
 2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

4. Health Insurance Portability and Accountability Act (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
 2. The Contractor may provide data aggregation services relating to the health care operations of the County.

- c. The Contractor shall:
1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
 2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
 3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
 4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
 5. Make available protected health information in accordance with 45 CFR § 164.524;
 6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.528;
 7. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
 8. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of, the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 9. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by the Contractor on behalf of, the County that the Contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this Contract to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 3. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. Non-Assignment Clause.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. Worker's Compensation Benefits.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. Non-Discrimination Requirements.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

8. Wage and Hours Provisions.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or

provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County approved sums due and owing for work done upon the project.

9. Non-Collusive Bidding Certification.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. Records.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails and attachments, rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. Identifying Information and Privacy Notification.

a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the

payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payees, on its invoice or claim for payment, must give the reason or reasons why the payee does not have such number or numbers.

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. Conflicting Terms.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. Governing Law.

This Contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

14. Prohibition on Purchase of Tropical Hardwoods.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the County.

15. Compliance with New York State Information Security Breach and Notification Act.

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

16. Gratuities and Kickbacks.

a. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. **Kickbacks.** It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. Audit

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to or permit the County to examine or obtain copies of any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a Federal financial assistance program from a Federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. **Certification of compliance with the Iran Divestment Act.**

Pursuant Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (OGS) website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within 90 days after the determination of such violation, then the County shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

IN WITNESS WHEREOF, the parties hereto have signed this document on the day and year first above written.

County of Oneida

Contractor

By: _____
Anthony J. Picente, Jr.
Oneida County Executive

By: David D. Kane
Name:

Approved as to Form only

Oneida County Attorney

From Invitation
to Bid

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Appendix A

SPECIFICATIONS FOR TRANSPORTATION OF EARLY INTERVENTION AND PRESCHOOL CHILDREN WITH DISABILITIES ON BEHALF OF THE ONEIDA COUNTY DEPARTMENT OF HEALTH DURING THE PERIOD FROM SEPTEMBER 1, 2014 THROUGH AUGUST 31, 2017

I. SCOPE

- A. Pursuant to the provisions of Sections 4406 and 4410 of the Education Laws of 1989, Section 236 of the Family Court Act, and other applicable acts and amendments, the Oneida County Department of Health requires transportation for certain Children with Special Needs who are receiving services in connection with the County's Preschool and Early Intervention Programs. These children will be age 0-5.
- B. This service will be provided to pre-school age children designated by the County or it's Agent, and only to such passengers, and will consist of regular routes and runs similar to those set out in Appendix I, although additions and deletions to the trips may be required periodically.
- C. Transportation provided to these pre-school age children will be provided on weekdays, and at least three (3) business days prior notice of run scheduling changes and/or additional pre-school age children to be added to existing Runs will be given. However, under special circumstances (such as those in which specific equipment not otherwise required herein, is needed) efforts will be made to provide at least five (5) days prior notice.
- D. No Run will exceed fifty (50) miles, and without the prior consent of the Department, no Run will exceed seventy-five (75) minutes. However, in exceptional circumstances of time, distance, weather, or load factors, such as a single vehicle being used to transport children to two separate schools, the County or the Agent will have the option, at its sole discretion, of approving the extension for the time of a run to ninety (90) minutes.
- E. It is understood that the Department may make use of other types of transportation. The form of transportation to be utilized will be determined by the County, the Department, or the Agent. In this respect, nothing in this Specification shall be construed so as to imply that the Department will make exclusive use of sedan, van, or bus services in connection with the transportation of individuals serviced by the Department.

- F. At the County's sole discretion, and at the instruction of the County or its Agent, transportation will be provided from a defined point of origin to a transfer point rather than to an actual program destination.
- G. Vehicles transporting multiple passengers may be required to drop some passengers off at interim points, without additional payment. By way of example, but without limitation, this type of trip might include a single vehicle providing service to children attending two separate programs.
- H. As set out on the Bid Sheets (see Appendix K), one Bidder will be awarded the Contract for each Program.
- I. The initial contract period shall be from September 1, 2014 through August 31, 2017
- J. The County shall have two (2) separate and consecutive options to extend any contract awarded in connection with the bids submitted, for additional periods of one (1) year each on all of the terms and conditions contained in these bid specifications and the Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised in writing, and such option period shall commence upon the expiration of the immediately preceding contract period.
- K. Notwithstanding anything to the contrary in subsection J above, upon the commencement of each year of the Contract after the first year, and at the commencement of each option period, if any, the sums to be paid to the Contractor shall be increased by an amount equal to the increase in the consumer price index ("CPI") as calculated by the US Department of Labor, Bureau of Labor Statistics (as shown on the internet at www.bls.gov, and listed under "Northeast Region All Items, Not Seasonally Adjusted—12 Month Percent Change") as of the first day of the month in which the County exercises its option, or two and one-half (2½%) percent, whichever is less.

II. CREDENTIALS

Each proposal must be accompanied by a certified statement of the bidder, or in the case of corporations, by its Officers, showing the following:

- A. The name of a bank as reference to the financial stability of the bidder, as well as a complete financial statement showing assets and liabilities of the bidder.
- B. A list of local or county-wide programs or schools or school districts (or similar regular transportation service recipients) with which the bidder has had transportation contracts.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 1, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

FN 20

18-258

HEALTH & HUMAN SERVICES

Dear Mr. Picente:

WAYS & MEANS

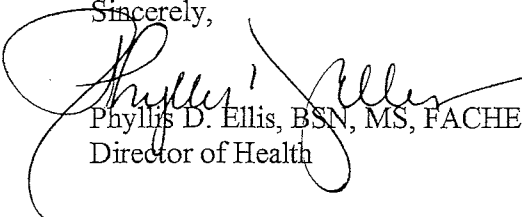
Under section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, municipalities are mandated to provide payment for transportation services rendered to preschool aged children classified as disabled.

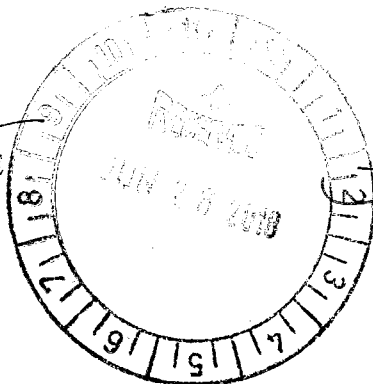
Attached are three (3) copies of a letter that exercises the second and final option from an Agreement between Oneida County through its Health Department and Birnie Bus Service, Inc. The original Agreement was effective from September 1, 2014 through August 31, 2017, while the first option extended the terms of the original agreement from September 1, 2017 through August 31, 2018. The attached letter extends the terms for the reimbursement of transportation services by Birnie Bus Service, Inc. for an additional year, which includes the period from September 1, 2018 through August 31, 2019.

The transportation of preschool aged children with disabilities is a New York State mandated program. We anticipate the cost of the contract will not exceed \$1,658,535.00 for the above stated period of time. Oneida County is responsible for 40.5 % of the expenses and the remaining 59.5% is reimbursed by New York State.

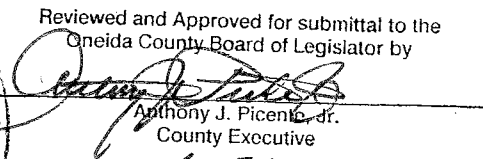
I respectfully request that you sign this letter in order to exercise this option for an additional year of transportation services to preschool aged children through Birnie Bus Service, Inc.

Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health



Reviewed and Approved for submittal to the
Oneida County Board of Legislator by


Anthony J. Picente, Jr.
County Executive

Date 6-28-17

CM

Oneida Co. Department: Public Health

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other X

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Birnie Bus Service, Inc.
248 Otis Street
Rome, NY 13440

Title of Activity or Service: Transportation services for Preschool Students classified with disabilities

Proposed Dates of Operation: September 1, 2018 to August 31, 2019
(2nd Renewal Period)

Client Population/Number to be Served: Preschool Students classified with Disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Reference Bid #1712 for transportation services provided in accordance with Section 119-0 of the General Municipal Law and Section 236 of the Family Court Act. Original Contract #015041 contained two options for additional one-year renewals. Oneida County Health Department elects to exercise that option.
- 2) **Program/Service Objectives and Outcomes:** Provision of bus service transportation for eligible students in order to access the delivery of preschool educational services as required by NYS Education Law.
- 3) **Program Design and Staffing:** The Oneida County Health Department contracts with providers who are qualified to provide services according to Section 4410 of Education law, Part 200 Regulations of the Commissioner of Education, New York State Education Department Individual and Disabilities Act of 1990, Title 34, Part 300 of the Code of Federal Regulations.

Total Funding Requested: \$1,658,535 **Account #** A2960.4956

Oneida County Dept. Funding Recommendation: \$1,658,535

Proposed Funding Sources (Federal \$/ State \$/County \$): County: \$671,707
State: \$986,828

Cost Per Client Served: N/A

Past Performance Data: 2017-2018 term expenses were \$1,491,074.22 or \$124,256.19 monthly.

O.C. Department Staff Comments: N/A




ONEIDA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

ANTHONY J. PICENTE, JR.
County Executive
ce@ocgov.net

June 7, 2018

Timothy Birnie
President
Birnie Bus Service, Inc.
248 Otis Street
Rome, New York 13440

Re: Exercise of Oneida County's Option to Extend
Contract for Transportation Services for
Preschool Children with Disabilities

Dear Mr. Birnie: 

Oneida County has a contract with Birnie Bus Service, Inc., under which Birnie Bus Service, Inc. provides transportation services for preschool children with disabilities. The term of that contract is from September 1, 2014 through August 31, 2017. The contract also contains a provision, through which Oneida County has options to extend the contract for two (2) periods of one (1) year each, under all of the terms and conditions of the original contract. Oneida County already exercised its first option, which is effective until August 31, 2018. By this letter, Oneida County exercises its second and final option, thereby extending the original contract for an additional year under all of the terms and conditions of the original contract.

This contract extension shall be in effect from September 1, 2018 through August 31, 2019.

Regarding reimbursement, since the original contract does not address reimbursement for this extension, the Oneida County Health Department expects that the total reimbursement for the term of the extension shall not exceed \$1,658,585.00.

Sincerely,



Anthony J. Picente, Jr.
Oneida County Executive



ONEIDA COUNTY AGREEMENT

THIS AGREEMENT, made the 1st day of September 2014, by and between the **COUNTY OF ONEIDA**, a municipal corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 800 Park Avenue, Utica, New York, 13501, hereinafter called "**County**", and **BIRNIE BUS SERVICE, INC.**, a domestic corporation, organized and existing under the laws of the State of New York with its place of business at 248 Otis Street, Rome, New York, 13440, hereinafter called "**Vendor.**"

WITNESSTH

That for and in consideration of the agreements hereinafter mentioned, the vendor hereby agrees with the County to commence and perform the services and provide the materials described in:

**Bid # 1712- Transportation Services for Preschool Children with Disabilities
September 1, 2014 through August 31, 2017**

For the amount based on a "School Bus and Driver Assistant and/or Sedan and Driver Assistant" for either or both of a round trip or a full day, as designated from time to time by the County, and as specified in the attached approved Bid Proposal Documents, hereafter known as "Exhibit A," and at its own proper cost and expense to furnish all the necessary materials, equipment, machinery, tools, superintendence, labor, insurance, and other accessories necessary to perform said service in accordance with the conditions and prices stated in the proposal, general and supplementary conditions of the specifications and qualifications set forth in any addendum to the contract and contract documents therefore as prepared by the Oneida County Department of Purchasing herein entitled the "Purchaser" all of which are made a part hereof and collectively evidence and constitute the Agreement.

For the avoidance of doubt, the Bid Specifications are designated as ***Bid # 1712- Transportation Service for Preschool Children with Disabilities*** (the "Bid Specifications"), and each and every term and condition contained therein are hereby incorporated into and made a part of this Agreement by this reference.

Upon all the terms and conditions stated in the Bid Specifications, the Vendor hereby agrees to provide transportation services for the designated sites in the attached Bid Proposal Form, attached hereto and made part hereof, and further agrees to perform such services in accordance with terms and conditions set forth in this Agreement, and related specifications, during the September 1, 2014 through August 31, 2017 term.



The County agrees to pay the vendor in current funds for the performance of the contract subject to additions and deductions, as provided in the conditions of the specifications heretofore mentioned, and to make payments on account thereof as provided in said General Conditions.

The vendor may not assign, transfer, convey, sublet or otherwise dispose of the Agreement or of his right, title or interest therein, or his power to execute the Agreement, to any other person or corporation without the previous consent, in writing, by the County.

The vendor agrees to obtain the necessary insurance coverage in accordance, and in compliance, with the specifications set forth in the Bid Specifications.


Pursuant to Oneida County Board of Legislators Resolution No. 249 of 1999, the Vendor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all wastes and recyclables generated within the Authority's service area by performance of this contract by the vendor and/or any sub-vendors.

The vendor agrees to make no claim for damages for delays occasioned by an act or omission of the County of Oneida, State of New York.

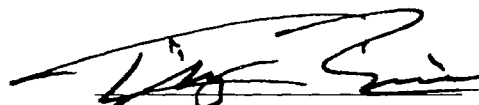
IN WITNESS WHEREOF, the respective parties herein have hereunto set their hands on the day and year first written above.

FOR THE COUNTY:

FOR THE VENDOR:

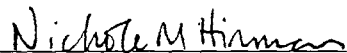


Anthony J. Picente, Jr.
County Executive



Timothy Birnie
President, Birnie Bus Service, Inc.

Approved as to Form



Nichole M. Hinman, Esq.
Assistant County Attorney

ADDENDUM

THIS ADDENDUM, entered into on this 1st day of September, 2014, between the County of Oneida, hereinafter known as COUNTY, and a contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as CONTRACTOR.

WHEREAS, COUNTY and CONTRACTOR have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which COUNTY is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. Executor or Non-Appropriation Clause.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. Oneida County Board of Legislators: Resolution #249 Solid Waste Disposal Requirements.

Pursuant to Oneida County Board of Legislators Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. Certification Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal Grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
 2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 3. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
1. The Contractor certifies that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contracts under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicated or otherwise criminally or civilly charged by a Government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1(b) of this certification; and
 - d. Have not within a three-year period preceding this Contract had one or more public transactions (Federal, State, or local) for cause or default; and
 2. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. The Contractor will or will continue to provide a drug-free workplace by:

- a. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- b. Establishing an on-going drug-free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. The Contractor's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation, and employee assistance program; and
 4. The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
- d. Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the Contract, the employee will:
 1. Abide by the terms of the statement; and
 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- e. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
- f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;
 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the Requirements of the Rehabilitation Act of 1973, as amended; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e),(f).

2. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

- d. **Drug-Free Workplace (Contractors who are individuals):** As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F. for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
1. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
 2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to: Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

4. Health Insurance Portability and Accountability Act (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
1. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 2. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 3. Utilize an adequate amount of physical hardware, including but not limited to filing cabinets, and locks on drawers, cabinets, and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:
1. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
 2. The Contractor may provide data aggregation services relating to the health care operations of the County.

- c. The Contractor shall:
1. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
 2. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
 3. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
 4. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of, the County agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
 5. Make available protected health information in accordance with 45 CFR § 164.524;
 6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR § 164.528;
 7. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
 8. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the Contractor on behalf of, the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 9. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by the Contractor on behalf of, the County that the Contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this Contract to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
1. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 2. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 3. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. Non-Assignment Clause.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. Worker's Compensation Benefits.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. Non-Discrimination Requirements.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

8. Wage and Hours Provisions.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or

provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County approved sums due and owing for work done upon the project.

9. Non-Collusive Bidding Certification.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. Records.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails and attachments, rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. Identifying Information and Privacy Notification.

a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the

payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payees, on its invoice or claim for payment, must give the reason or reasons why the payee does not have such number or numbers.

b. Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. Conflicting Terms.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. Governing Law.

This Contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

14. Prohibition on Purchase of Tropical Hardwoods.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the County.

15. Compliance with New York State Information Security Breach and Notification Act.

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

16. Gratuities and Kickbacks.

a. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

b. **Kickbacks.** It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. Audit

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to or permit the County to examine or obtain copies of any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a Federal financial assistance program from a Federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. Certification of compliance with the Iran Divestment Act.

Pursuant Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (OGS) website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within 90 days after the determination of such violation, then the County shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

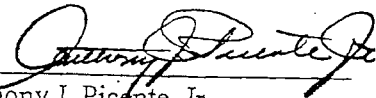
The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

IN WITNESS WHEREOF, the parties hereto have signed this document on the day and year first above written.

County of Oneida

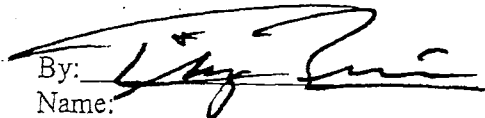
Contractor

By:

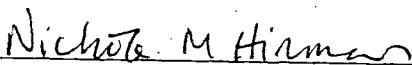

Anthony J. Picente, Jr.
Oneida County Executive

By:

Name:



Approved as to Form only


Nichole M. Hirman
Oneida County Attorney

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Appendix A

SPECIFICATIONS FOR TRANSPORTATION OF EARLY INTERVENTION AND PRESCHOOL CHILDREN WITH DISABILITIES ON BEHALF OF THE ONEIDA COUNTY DEPARTMENT OF HEALTH DURING THE PERIOD FROM SEPTEMBER 1, 2014 THROUGH AUGUST 31, 2017

I. SCOPE

- A. Pursuant to the provisions of Sections 4406 and 4410 of the Education Laws of 1989, Section 236 of the Family Court Act, and other applicable acts and amendments, the Oneida County Department of Health requires transportation for certain Children with Special Needs who are receiving services in connection with the County's Preschool and Early Intervention Programs. These children will be age 0-5.
- B. This service will be provided to pre-school age children designated by the County or it's Agent, and only to such passengers, and will consist of regular routes and runs similar to those set out in Appendix I, although additions and deletions to the trips may be required periodically.
- C. Transportation provided to these pre-school age children will be provided on weekdays, and at least three (3) business days prior notice of run scheduling changes and/or additional pre-school age children to be added to existing Runs will be given. However, under special circumstances (such as those in which specific equipment not otherwise required herein, is needed) efforts will be made to provide at least five (5) days prior notice.
- D. No Run will exceed fifty (50) miles, and without the prior consent of the Department, no Run will exceed seventy-five (75) minutes. However, in exceptional circumstances of time, distance, weather, or load factors, such as a single vehicle being used to transport children to two separate schools, the County or the Agent will have the option, at its sole discretion, of approving the extension for the time of a run to ninety (90) minutes.
- E. It is understood that the Department may make use of other types of transportation. The form of transportation to be utilized will be determined by the County, the Department, or the Agent. In this respect, nothing in this Specification shall be construed so as to imply that the Department will make exclusive use of sedan, van, or bus services in connection with the transportation of individuals serviced by the Department.

- F. At the County's sole discretion, and at the instruction of the County or its Agent, transportation will be provided from a defined point of origin to a transfer point rather than to an actual program destination.
- G. Vehicles transporting multiple passengers may be required to drop some passengers off at interim points, without additional payment. By way of example, but without limitation, this type of trip might include a single vehicle providing service to children attending two separate programs.
- H. As set out on the Bid Sheets (see Appendix K), one Bidder will be awarded the Contract for each Program.
- I. The initial contract period shall be from September 1, 2014 through August 31, 2017
- J. The County shall have two (2) separate and consecutive options to extend any contract awarded in connection with the bids submitted, for additional periods of one (1) year each on all of the terms and conditions contained in these bid specifications and the Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised in writing, and such option period shall commence upon the expiration of the immediately preceding contract period.
- K. Notwithstanding anything to the contrary in subsection J above, upon the commencement of each year of the Contract after the first year, and at the commencement of each option period, if any, the sums to be paid to the Contractor shall be increased by an amount equal to the increase in the consumer price index ("CPI") as calculated by the US Department of Labor, Bureau of Labor Statistics (as shown on the internet at www.bls.gov, and listed under "Northeast Region All Items, Not Seasonally Adjusted—12 Month Percent Change") as of the first day of the month in which the County exercises its option, or two and one-half (2½%) percent, whichever is less.

II. CREDENTIALS

Each proposal must be accompanied by a certified statement of the bidder, or in the case of corporations, by its Officers, showing the following:

- A. The name of a bank as reference to the financial stability of the bidder, as well as a complete financial statement showing assets and liabilities of the bidder.
- B. A list of local or county-wide programs or schools or school districts (or similar regular transportation service recipients) with which the bidder has had transportation contracts.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 7, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

FN 20 17-259
HEALTH & HUMAN SERVICES
WAYS & MEANS

Dear Mr. Picente:

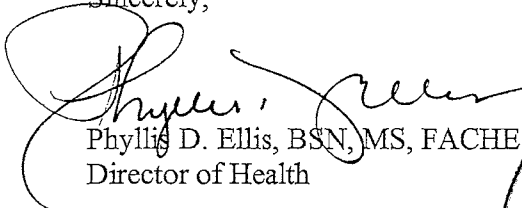
Attached are two (2) copies of an Agreement between Oneida County through its Health Department and Building Blocks Learning Center, LLC. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities. The term "related services" includes, but is not limited to services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

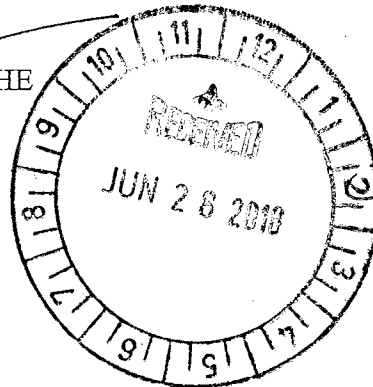
The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected total is \$219,315.27 per year based on previous expenditures and is an estimate, for a three-year estimate of \$657,945.81.

If this meets with your approval, please forward to the Board of Legislators.

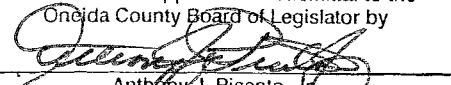
Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health

CM



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Date 6-28-18

Oneida Co. Department: Health

Competing Proposal X
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor:

Building Blocks Learning Center, LLC
19 Robinson Road
Clinton, NY 13323

Title of Activity or Service:

Preschool Related Services

Proposed Dates of Operation:

July 1, 2018 to June 30, 2020

Client Population/Number to be Served:

Eligible preschool children in Oneida
County with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, New York State requires that counties are to provide payment for related services rendered to eligible preschool aged children with disabilities.
- 2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of Education Law
- 3) **Program Design and Staffing** NA

Total Funding Requested: \$657,945.81 **Account A2960 1953 Rev act A3277**

Oneida County Dept. Funding Recommendation: \$657,945.81

Proposed Funding Sources (State \$/County \$): State pays 59.5% County pays 40.5%

Cost Per Client Served: N/A

Past Performance Data: 2017 expenditure was \$309,156.00. The first quarter of 2018 shows 29.06% decrease

O.C. Department Staff Comments: Annual funding is estimated to be \$219,315.



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," and **BUILDING BLOCKS LEARNING CENTER, LLC.**, a New York limited liability company organized and existing under the laws of the State of New York, having its principal office located at 19 Robinson Road, Clinton, NY 13323, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child's resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as "Appendix A." Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the “payer of last resort.” Nothing herein shall preclude the child’s enrollment and initiation of services in accordance with the Board’s Notice of Determination. A copy is to remain in the Contractor’s file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter “SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter “CPSE”) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. Speech pathologists shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current ICD code. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be

- permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
 - e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
 - f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
 - g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
 - h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
 - i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
 - j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
 - k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
 - l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
 - m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
 - n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
 - o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Makeup sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that its employees and agents shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor or its employees and agents under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

ENTIRE AGREEMENT

The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

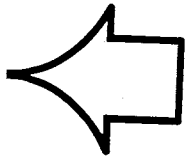
IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente, Jr.
Oneida County Executive

BY: Michelle P. O'Brien
Michelle P. O'Brien
Building Blocks Learning Center, LLC.



**SIGN
&
DATE**

DATE: _____

DATE: 6/18/18

Approved

BY: _____
Raymond F. Bara
Assistant County Attorney

**APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE**

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
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Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
 - ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
 - c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
 - i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 7, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

FN 20 18 260

HEALTH & HUMAN SERVICES

Dear Mr. Picente:

WAYS & MEANS

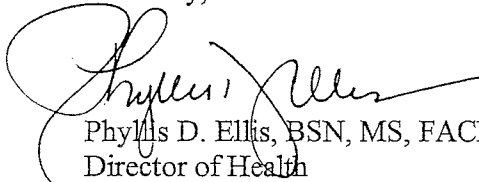
Attached are two (2) copies of an Agreement between Oneida County through its Health Department and Affinity Rehabilitation, LLP. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

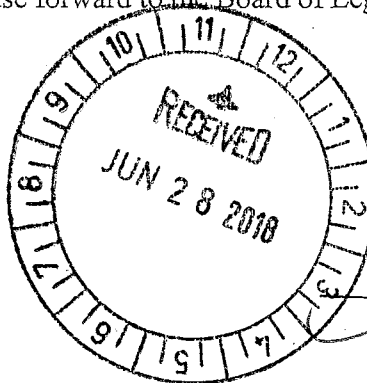
Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities. The term "related services" includes, but is not limited to services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected yearly total estimated to be \$50,000 because as a new vendor previous data is not available, for a three-year total of \$150,000.

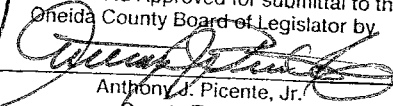
If this meets with your approval, please forward to the Board of Legislators.

Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Date 6-28-18

CM

Oneida Co. Department: Health

Competing Proposal X
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor:

Affinity Rehabilitation, LLP
307 International Circle Suite 100
Hunt Valley, MD 21030

Title of Activity or Service:

Preschool Related Services

Proposed Dates of Operation:

July 1, 2018 to June 30, 2020

Client Population/Number to be served:

Eligible preschool children in Oneida
County with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, New York State requires that counties are to provide payment for related services rendered to eligible preschool aged children with disabilities.
- 2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of Education Law
- 3) **Program Design and Staffing** NA

Total Funding Requested: \$150,000

Account # A2960.1953 Rev Acct 3277

Oneida County Dept. Funding Recommendation: \$150,000

Proposed Funding Sources (Federal \$/ State \$/County \$): State pays 59.5% County pays 40.5%

Cost Per Client Served: varies

Past Performance Data: NA

O.C. Department Staff Comments: This is a new vendor with no prior history so costs are estimated to be \$50,000 per year at this time.



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," and **AFFINITY REHABILITATION, LLP**, a New York domestic registered limited liability partnership organized and existing under the laws of the State of New York, having its principal office located at 307 International Circle Suite 100 Hunt Valley, MD 21030, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child's resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as "Appendix A." Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the “payer of last resort.” Nothing herein shall preclude the child’s enrollment and initiation of services in accordance with the Board’s Notice of Determination. A copy is to remain in the Contractor’s file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter “SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter “CPSE”) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. Speech pathologists shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current ICD code. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be

permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.

- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
- e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
- f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
- h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
- i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
- j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
- k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
- l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
- m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
- n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
- o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that its employees and agents shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor or its employees and agents under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

21. ENTIRE AGREEMENT

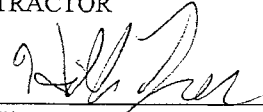
The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

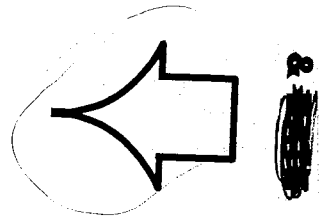
IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY:  _____
Hilary Foreman
Affinity Rehabilitation, LLP.



DATE: _____

DATE: 6/19/18

Approved

BY: _____
Raymond F. Bara, Assistant County Attorney

ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
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Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

- 1) Abide by the terms of the statement; and
- 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 • Fax: (315) 266-6138 • Email: publichealth@ocgov.net

June 11, 2018

EN 20 18261

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

HEALTH & HUMAN SERVICES

Dear Mr. Picente:

WAYS & MEANS

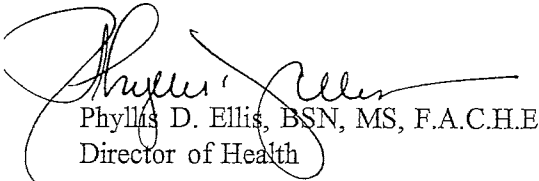
Attached are two (2) copies of an Agreement between Oneida County through its Health Department and Building Blocks Learning Center for the reimbursement of Special Education Itinerate Services rendered to eligible preschool children with disabilities for the period of July 1, 2018 through June 30, 2021.

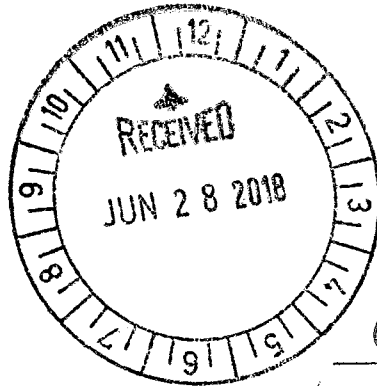
Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, municipalities are required to provide payment for Preschool Special Education Programs rendered to eligible preschool aged children with disabilities.

This is a New York State mandated program. The tuition rate is set by New York State. We anticipate reimbursements will total \$130,000.00 over the three year term.

If this contract meets with your approval please forward it to the Board of Legislators.

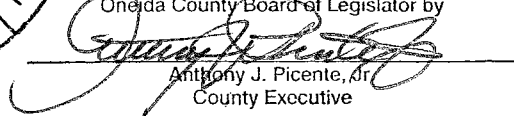
Sincerely,


Phyllis D. Ellis, BSN, MS, F.A.C.H.E.
Director of Health



Attachments
CM

Reviewed and Approved for submittal to the
Oneida County Board of Legislator by


Anthony J. Picente, Jr.
County Executive

Date 6-25-18

Oneida Co. Department: Health

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other X

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Building Blocks Learning Center, LLC
19 Robinson Road
Clinton, New York 13323

Title of Activity or Service: Special Education Itinerant
Services/Evaluation

Proposed Dates of Operation: July 1, 2018 to June 30, 2021

Client Population/Number to be Served: Qualified Preschool aged children with
disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** The Oneida County Health Department contracts with agencies that are qualified to provide a preschool program according to Section 4410 of the Education Law, 8 NYCRR Part 200 Regulations of the Commissioner of Education.
- 2) **Program/Service Objectives and Outcomes:** Special Education Itinerant Services for preschool students with disabilities
- 3) **Program Design and Staffing:** NA

Total Funding Requested: 130,000.00 **Account # A2960.4957**

Oneida County Dept. Funding Recommendation: \$130,000.00

Proposed Funding Sources (State 59.5%/County 40.5%): State pays = \$77,350.00
County pays = \$52,650.00

Cost Per Client Served

Past Performance Data: Total reimbursement for 2017 equaled \$57,189.00 with the costs of \$25,212 through June 1, 2018. Costs increased 5% from 2017 to 2018.

O.C. Department Staff Comments:



ONEIDA COUNTY PRESCHOOL SPECIAL EDUCATION ITINERANT SERVICES/EVALUATION CONTRACT

This Contract, by and between the COUNTY OF ONEIDA, through its Department of Health, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York, hereinafter referred to as the "County," and Building Blocks Learning Center, LLC, a limited liability company, having its principal offices at 19 Robinson Road, Clinton, New York 13323, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of evaluation services and special education itinerant services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program.

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide the above named special education service in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to an eligible preschool student with a disability, as recommended by the Committee on Preschool Special Education (CPSE) AND approved by the Board of Education (BOE) from the child's resident school district.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This contract shall become effective July 1, 2018 and shall terminate on June 30, 2021, conditioned upon the continued availability of Federal and/or New York State funds for the purpose set forth in this contract.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates approved by the State Department of Education (SED). Rates shall be the amount established for such purpose by the Commissioner of Education and certified by the Director of Budget of the State of New York. The County shall pay the Contractor only those rates published on the NYS Department of Education website by the Commissioner and only for such period as the Contractor has the Commissioner's approval. Compensation to the Contractor shall not exceed One Hundred and Twenty Thousand Dollars and no cents (\$120,000.00) during the term of this contract.

3. TERMINATION

- a. **BY CONTRACTOR:** Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. **BY COUNTY:** This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide Individual Evaluation/Individual Psychological Evaluation for potential children with disabilities. The parties hereto agree that "Individual Evaluation" as used herein shall have the same meaning as that term is defined in Section 4410 of New York State Education Law and 8 NYCRR 200.1 (aa). The parties hereto agree that "Individual Psychological Evaluation" as used herein shall have the same meaning as that term is defined in section 4410 of New York State Law and 8 NYCRR 200.1 (bb).
- b. The Contractor shall provide appropriate Special Education for children with disabilities delivered on an itinerant basis subject to New York State Education Department (SED) and Board of Education (BOE) approval. The parties hereto agree that "Special Education" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(wv).
- c. The Contractor shall provide Special Education Itinerant Services (SEIS) for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- d. **The Contractor cannot begin providing SEIS to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1, outlining the appropriate SEIS to be provided by the Contractor. The start date will be indicated on the STAC 1(System to Track and Account for Children) and a copy shall be provided to the Contractor.**
- e. All financial arrangements for services under this Contract shall be between the County and Contractor in accordance with the Provisions of Section 5 of this Contract. The Contractor shall be responsible for the delivery of appropriate services, including the training and/or retraining of direct service staff employed by the Contractor. For purposes hereof, "direct service staff" shall be defined as, but not limited to, individuals providing special education itinerant services that are certified by law, to provide such services as mandated on the child's Individualized Education Program (IEP). The County will maintain an approved Oneida County SEIS Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will provide payment of Evaluation and Reevaluation services rendered, as authorized on the child's Request for Commissioner's Approval of Reimbursement for the Cost of Evaluations (STAC-5) certified by the Committee on Preschool Special Education Chairperson in each school district.
- b. The County will provide payment for SEIS rendered as authorized on the child's IEP and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement.

- g. The Contractor shall prepare and make available such statistical, financial and other records pursuant to section 4410 of the New York State Education Law, as necessary for reporting and accountability. All documents and records shall be consistent with New York State requirements for audit and rate establishment procedures. The financial records shall be retained by the Contractor for seven (7) years after the school year in which the services were provided. The Contractor shall also be responsible for submitting to the County a copy of their cost report for this Contract term provided herein.
- h. These records pursuant to Section 4410 of the New York State Education Law shall be subject at all reasonable times to inspection, review or audit by the BOE, the County where the Contractor is located, the State of New York, acting through the Education Department or the State Comptroller, federal and other personnel duly authorized by such County. In addition, the County shall make available any and all copies of such documents to such other Municipalities.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children pursuant to Section 4410 of the New York State Education Law:

- a. Dates of services rendered and documentation that each SEIS session was verified as delivered by the signature of the service provider.
- b. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- c. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- d. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (CIN), period of eligibility and any other relevant third party health insurance information for the purpose of establishing Medicaid as the "payer of last resort". Nothing herein shall preclude the child's enrollment and initiation of services in accordance with the Board's Notice of Determination. A copy is to remain in the Contractor's file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all Federal, New York State statutes and regulations and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (SCR).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six

months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.

- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child's representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists and teachers shall be presently qualified to provide Evaluations and SEIS in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (CPSE) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. **The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.**
- c. **Speech pathologists** shall be required to obtain a written **Prescription** (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician's assistant or nurse practitioner which denotes the appropriate and current ICD code. **The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. 18NYCRR 505.11 states that a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner's orders must be dated on or before the initiation of service. No direct or consultation services will be permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.**
- d. **Physical Therapists** must obtain a signed prescription (order/ recommendation) from a physician, physician assistant or nurse practitioner which denotes an **ICD code**.
- e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an **ICD code**.
- f. **No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.**
- g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of SEIS.
- h. The Contractor shall submit an attendance and progress note for each session the child received SEIS on a monthly basis at the minimum, or with the invoice, whichever is presented first. **All progress notes submitted must also have the signature and National Provider Identification number (NPI#) of this licensed individual and title as well as the direct service provider and title.**
- i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.

- j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
- k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
- l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the SEIS provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for SEIS if provided in the home.
- m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that SEIS is to be provided in conjunction with one or more Related Services, the SEIS shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the SED established rates for the SEIS model.
- n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.

11. RESPONSIBILITIES OF SEIS AS THE COORDINATOR OF SERVICE

It is the responsibility of the SEIS provider to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section covering Reporting Requirements above, the coordinator will perform appropriate coordination activities including but not limited to:

- a. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
- b. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
- c. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
- d. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
- e. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.
- f. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.

12. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor shall also maintain general liability insurance and will provide County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have Oneida County named as an "additional insured," on a "primary, non-contributory basis, as its interests may appear" on the general liability policy and to provide the County with certificates from said insurance company or companies showing the proof of insurance as stated heretofore. The County reserves the right to require Contractor to provide insurance policies for review by the County. The Contractor grants the County a limited power of attorney to communicate with Contractor's insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

13. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

14. EXCLUSIVITY

- a. The County retains the right to reassign children receiving SEIS under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving SEIS in Oneida County.

15. INDEPENDENT CONTRACTOR STATUS:

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the Department by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that its employees shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor or its employees or agents under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees or agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of workers' compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with Federal and State Laws as supplemented in the Department of Labor regulation and any other regulations of the Federal and State entities relating to such employment and Civil Rights requirements.

16. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

17. ENTIRE AGREEMENT

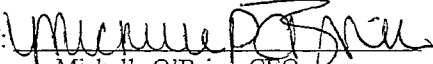
The terms of this Contract, the attached Standard Oneida County Conditions Addendum, and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

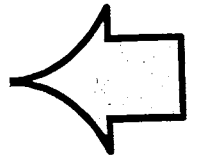
IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY: 
Michelle O'Brien, CEO
Building Blocks Learning Center



DATE: _____

DATE: 6/18/18

Approved

BY: _____
Assistant Oneida County Attorney

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative

agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:

- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

1) The dangers of drug abuse in the workplace;

- 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:
- Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.
- F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

- 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- 2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

- ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

- i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and
- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the

Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County

available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and

- ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKER'S COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as

determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records

shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application;

request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services

(hereinafter “OGS”) website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the “use of tobacco” shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including: chewing; holding in the mouth; or expectoration of chewing tobacco.
- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that

delivers vapor which is inhaled by an individual user as he or she simulates smoking.

- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.

- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

FN 20 18-262

June 7, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

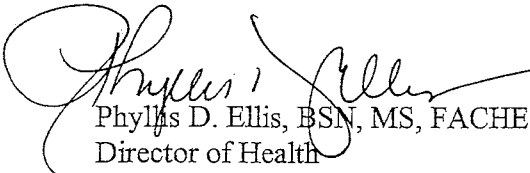
Attached are two (2) copies of an Agreement between Oneida County through its Health Department and NYSARC through its ARC of Oneida-Lewis Chapter. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

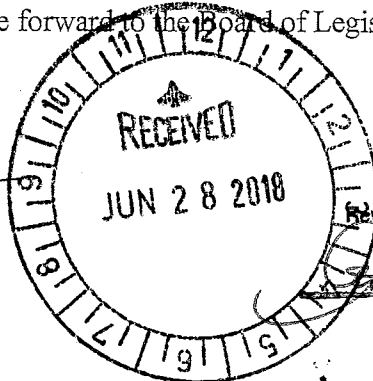
Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities. The term "related services" includes, but is not limited to services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected total per year is \$51,327.51 based on previous expenditures and is an estimate, for a three-year estimate of \$153,982.53.

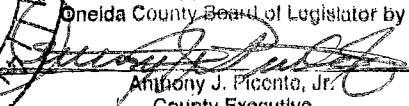
If this meets with your approval, please forward to the Board of Legislators.

Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Date 6-28-18

CM

Oneida Co. Department: Health

Competing Proposal X
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor:

NYSARC, INC.,
through its ARC of Oneida-Lewis Chapter
245 Genesee Street
Utica, NY 13501

Title of Activity or Service:

Preschool Related Services

Proposed Dates of Operation:

July 1, 2018 to June 30, 2020

Client Population/Number to be Served:

Eligible preschool children in Oneida
County with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, New York State requires that counties are to provide payment for related services rendered to eligible preschool aged children with disabilities.
- 2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of Education Law
- 3) **Program Design and Staffing** NA

Total Funding Requested: \$153,982.53 3 years **Account A2960.1953**
Rev act A3277

Oneida County Dept. Funding Recommendation: \$51,327.51 per year

Proposed Funding Sources (Federal \$/ State \$/County \$): State pays 59.5% County pays 40.5%

Cost Per Client Served: unknown

Past Performance Data: 2017 expenditure was \$48,888.00. First quarter of 2018 shows 4.99% increase

O.C. Department Staff Comments:



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Department of Health, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the “County,” and **NYSARC, INC.**, a domestic not-for-profit corporation organized and existing under the laws of the State of New York, through its ARC of Oneida-Lewis Chapter, located at 245 Genesee Street Utica, NY 13501, hereinafter referred to as the “Contractor.”

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County’s Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child’s resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as “Appendix A.” Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the “payer of last resort.” Nothing herein shall preclude the child’s enrollment and initiation of services in accordance with the Board’s Notice of Determination. A copy is to remain in the Contractor’s file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter “SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter “CPSE”) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. Speech pathologists shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current ICD code. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be

- permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
 - e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
 - f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
 - g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
 - h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
 - i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
 - j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
 - k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
 - l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
 - m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
 - n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
 - o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that its employees and agents shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor or its employees and agents under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

21. ENTIRE AGREEMENT

The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY: _____
Karen Korotzer, Executive Director
NYSARC, Inc.

DATE: _____

DATE: 6/19/18

Approved

BY: _____
Raymond F. Bara, Assistant County Attorney

APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
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Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
- i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

- 1) Abide by the terms of the statement; and
- 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 7, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

FN 20 18 263
HEALTH & HUMAN SERVICES
WAYS & MEANS

Dear Mr. Picente:

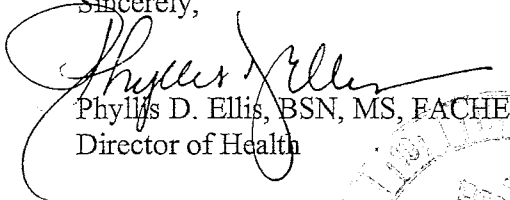
Attached are two (2) copies of an Agreement between Oneida County through its Health Department and Camden Central School District. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities. The term "related services" includes, but is not limited to services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

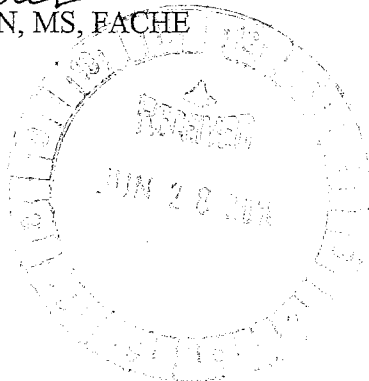
The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected total for three years is \$150,000 and is an estimate only.

If this meets with your approval, please forward to the Board of Legislators.

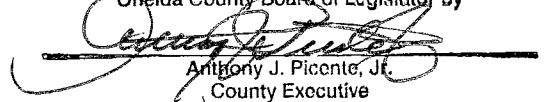
Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health

CM



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Date 6-28-18

Oneida Co. Department: Health

Competing Proposal X
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Camden Central School District
51 Third St.
Camden, NY 13316

Title of Activity or Service: Preschool Related Services

Proposed Dates of Operation: July 1, 2018 to June 30, 2020

Client Population/Number to be Served: Eligible preschool children in Oneida County with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, New York State requires that counties are to provide payment for related services rendered to eligible preschool aged children with disabilities.
- 2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of Education Law
- 3) **Program Design and Staffing** NA

Total Funding Requested: \$150,000 **Account#** **A2960.1953**
Rev. A3277

Oneida County Dept. Funding Recommendation: \$150,000

Proposed Funding Sources (Federal \$/ State \$/County \$): State pays 59.5% County pays 40.5%

Cost Per Client Served: NA

Past Performance Data: NA

O.C. Department Staff Comments: Annual cost projected as \$50,000 (estimate).



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the “County,” and **CAMDEN CENTRAL SCHOOL DISTRICT**, a New York central school district organized and existing under the laws of the State of New York, having its principal office located at 51 Third Street, Camden, NY 13316, hereinafter referred to as the “Contractor.”

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County’s Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child’s resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as “Appendix A.” Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the "payer of last resort." Nothing herein shall preclude the child's enrollment and initiation of services in accordance with the Board's Notice of Determination. A copy is to remain in the Contractor's file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter "SCR").
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child's representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter "CPSE") annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. **Speech pathologists** shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician's assistant or nurse practitioner which denotes the appropriate and current **ICD code**. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner's orders must be dated on or before the initiation of service. No direct or consultation services will be

- permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
 - e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
 - f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
 - g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
 - h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
 - i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
 - j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
 - k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
 - l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
 - m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
 - n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
 - o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that its employees and agents shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor or its employees and agents under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

ENTIRE AGREEMENT

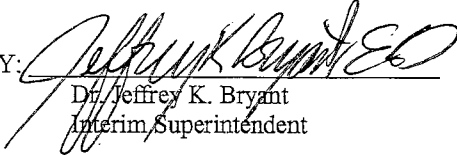
The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

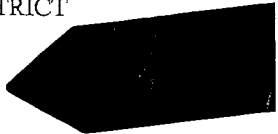
IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR – CAMDEN CENTRAL SCHOOL DISTRICT

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY: 
Dr. Jeffrey K. Bryant
Interim Superintendent



DATE: _____

DATE: 09/15/2014

Approved

BY: _____
Raymond F. Bara
Assistant County Attorney

APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
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Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and

D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;

ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.

c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. The Contractor will or will continue to provide a drug-free workplace by:

A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

- 1) Abide by the terms of the statement; and
- 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 7, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

2018 264

HEALTH & HUMAN SERVICES
WAYS & MEANS

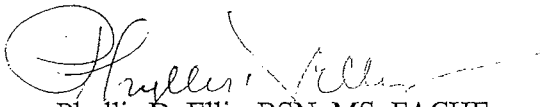
Dear Mr. Picente:

Attached are three (2) copies of an Agreement between Oneida County through its Health Department and Jacalyn Bates. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

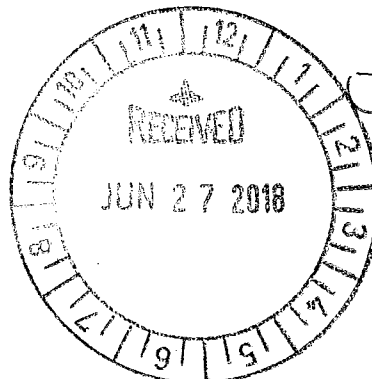
Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities. The term "related services" includes, but is not limited to services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected total for three years is \$77,217 and is based on previous expenditures.

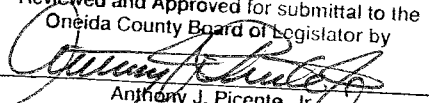
Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health

CM



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Date 6-29-18



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," and **JACALYN BATES**, having her principal office located at 9824 Shady Lake Road Camden, NY 13316, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child's resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as "Appendix A." Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the “payer of last resort.” Nothing herein shall preclude the child’s enrollment and initiation of services in accordance with the Board’s Notice of Determination. A copy is to remain in the Contractor’s file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter “SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter “CPSE”) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. **Speech pathologists** shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current ICD code. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be

- permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
 - e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
 - f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
 - g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
 - h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
 - i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
 - j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
 - k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
 - l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
 - m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
 - n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
 - o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor shall not be considered employee of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with her status as an independent contractor, covenants and agrees that she will conduct herself in accordance with such status, that she will neither hold herself out as, nor claim to be, an officer or employee of the County by reason thereof and that she will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that she is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that she shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

ENTIRE AGREEMENT

The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY: Jacalyn Bates
Jacalyn Bates

DATE: _____

DATE: 6/18/18

Approved

Raymond F. Bara
Assistant County Attorney

APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
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Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
 - i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

FN 20

18-265

April 12, 2018

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

Attached are two (2) copies of an Agreement between Oneidas County through its Health Department and the Camden Central School District, for the provision of Special Education Itinerant Services for preschool aged children.

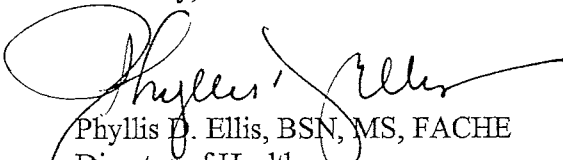
Under section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, municipalities are to provide payment for special education services rendered to eligible preschool aged children with disabilities. Camden Central School District has been approved by the Commissioner of Education of the State of New York to provide Special Education Itinerant Services (SEIS).

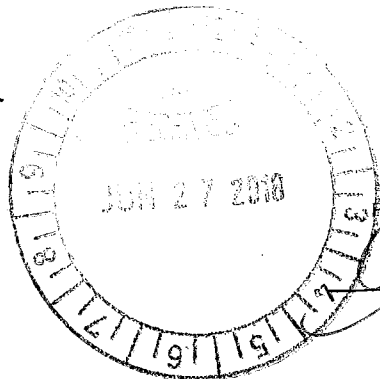
This Agreement is for the reimbursement of special education services for the period of February 1, 2018 through June 30, 2020.

This is a New York State mandated program. We anticipate the cost of the contract will be \$40,000.00 for the above stated period of time.


If this meets with your approval please forward to the Board of Legislators.

Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health



Reviewed and Approved for submital to the
Oneida County Board of Legislator by


Anthony J. Picente, Jr.
County Executive

Date 6-27-18

CM

Oneida Co. Department: Public Health

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other X

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Camden Central School District
51 Third Street
Camden, NY 13316

Title of Activity or Service: Special Education Services for Classified Preschool
Students with Disabilities

Proposed Dates of Operation: February 1, 2018 through June 30, 2020

Client Population/Number to be Served: Preschool Students with Disabilities

Summary Statements

1) Narrative Description of Proposed Services

The Oneida County Health Department contracts with program providers and individual therapists who are qualified to provide services according to section 4410 of Education Law, Part 200 Regulations of the Commissioner of Education, New York State Education Department Individual and Disabilities Act of 1990, Title 34, Part 300 of the Codes of Federal Regulations.

2) Program/Service Objectives and Outcomes: Special Education services for remediation of cognitive, adaptive and social-emotional delays in preschool age children.

3) Program Design and Staffing: Certified special education teachers employed by this contract agency will provide Special Education Services. Licensed individuals to provide supportive health services.

Total Funding Requested: \$40,000.00

Expense Account: A2960.4957, 1952

Oneida County Dept. Funding Recommendation: \$40,000.00

Proposed Funding Sources (Federal \$/ State \$/County \$): County: \$ 16,200.00
State: \$ 23,800.00

Cost Per Client Served: Varies based on recommendations of the Committee on Preschool Special Education for each individual child. Rates are set by New York State Department of Education

Past Performance Data: N/A

O.C. Department Staff Comments:



**ONEIDA COUNTY
PRESCHOOL SPECIAL EDUCATION ITINERANT SERVICES
CONTRACT**

This Contract, by and between the COUNTY OF ONEIDA, through its Department of Health, a municipal corporation of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York, hereinafter referred to as the "County," and CAMDEN CENTRAL SCHOOL DISTRICT, a central school district organized and existing under the laws of the State of New York, having its main office at 51 Third Street, Camden, New York 13316, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of special education itinerant services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education of the State of New York, through the County's Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York, hereinafter referred to as the "Commissioner," to provide the above named special education service in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to an eligible preschool student with a disability, as recommended by the Committee on Preschool Special Education, hereinafter abbreviated "CPSE," AND approved by the Board of Education, hereinafter abbreviated "BOE," from the child's resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective February 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of Federal and/or New York State funds for the purpose set forth in this Contract.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates approved by the New York State Education Department, hereinafter abbreviated "NYSED." Rates shall be the amount established for such purpose by the Commissioner and certified by the Director of Budget of the State of New York. The County shall pay the Contractor only those rates published on the NYSED website by the Commissioner and only for such period as the Contractor has the Commissioner's approval.

3. TERMINATION

- a. **BY CONTRACTOR:** Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.

- b. **BY COUNTY:** This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate the Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner set forth in 8 NYCRR Part 200.

- a. The Contractor shall provide Individual Evaluation/Individual Psychological Evaluation for potential children with disabilities. The parties hereto agree that "Individual Evaluation" as used herein shall have the same meaning as that term is defined in Section 4410 of New York State Education Law and 8 NYCRR 200.1 (aa). The parties hereto agree that "Individual Psychological Evaluation" as used herein shall have the same meaning as that term is defined in Section 4410 of New York State Education Law and 8 NYCRR 200.1 (bb).
- b. The Contractor shall provide appropriate Special Education for children with disabilities delivered on an itinerant basis subject to NYSED and BOE approval. The parties hereto agree that "Special Education" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(ww).
- c. The Contractor shall provide Special Education Itinerant Services, hereinafter abbreviated "SEIS," for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- d. **The Contractor cannot begin providing SEIS to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1, outlining the appropriate SEIS to be provided by the Contractor. The start date will be indicated on the STAC 1(System to Track and Account for Children) and a copy shall be provided to the Contractor.**
- e. All financial arrangements for services under this Contract shall be between the County and Contractor in accordance with the provisions of Section 5 of this Contract. The Contractor shall be responsible for the delivery of appropriate services, including the training and/or retraining of direct service staff employed by the Contractor. For purposes hereof, "direct service staff" shall be defined as, but not limited to, individuals providing special education itinerant services that are certified by law, to provide such services as mandated on the child's Individualized Education Program, hereinafter abbreviated "IEP." The County will maintain an approved Oneida County SEIS Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will provide payment of Evaluation and Reevaluation services rendered, as authorized on the child's Request for Commissioner's Approval of Reimbursement for the Cost of Evaluations (STAC-5) certified by the CPSE Chairperson in each school district.

- b. The County will provide payment for SEIS rendered as authorized on the child's IEP and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement.
- g. The Contractor shall prepare and make available such statistical, financial and other records pursuant to Section 4410 of the New York State Education Law, as necessary for reporting and accountability. All documents and records shall be consistent with New York State requirements for audit and rate establishment procedures. The financial records shall be retained by the Contractor for seven (7) years after the school year in which the services were provided. The Contractor shall also be responsible for submitting to the County a copy of their cost report for the Contract term provided herein.
- h. These records pursuant to Section 4410 of the New York State Education Law shall be subject at all reasonable times to inspection, review or audit by the BOE, the County where the Contractor is located, the State of New York, acting through the Education Department or the State Comptroller, federal and other personnel duly authorized by such County. In addition, the County shall make available any and all copies of such documents to such other Municipalities.

6. MEDICAID COMPLIANCE

The Contractor shall provide with the voucher the following information for all Medicaid eligible children pursuant to Section 4410 of the New York State Education Law:

- a. Dates of services rendered and documentation that each SEIS session was verified as delivered by the signature of the service provider.
- b. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- c. All reporting requirements necessary for Medicaid compliance with Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- d. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (CIN), period of eligibility and any other relevant third party health insurance information for the purpose of establishing Medicaid as the "payer of last resort". Nothing herein shall preclude the child's enrollment and initiation of services in accordance with the Board's Notice of Determination. A copy is to remain in the Contractor's file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all Federal, New York State statutes and regulations and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (SCR).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services, as that term is defined in 8 NYCRR 200.1(qq); (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child's representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists and teachers shall be presently qualified to provide Evaluations and SEIS in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend CPSE annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. **The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.**
- c. **Speech pathologists** shall be required to obtain a written **Prescription** (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician's assistant or nurse practitioner which denotes the appropriate and current **ICD code**. **The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. 18NYCRR 505.11 states that a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner**

to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner's orders must be dated on or before the initiation of service. No direct or consultation services will be permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.

- d. **Physical Therapists** must obtain a signed prescription (order/ recommendation) from a physician, physician assistant or nurse practitioner which denotes an **ICD code**.
- e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an **ICD code**.
- f. **No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.**
- g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of SEIS.
- h. The Contractor shall submit an attendance and progress note for each session the child received SEIS on a monthly basis at the minimum, or with the invoice, whichever is presented first. **All progress notes submitted must also have the signature and National Provider Identification number (NPI#) of this licensed individual and title as well as the direct service provider and title.**
- i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
- j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
- k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of Related Services.
- l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the SEIS provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for SEIS if provided in the home.
- m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that SEIS is to be provided in conjunction with one or more Related Services, the SEIS shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner. Compensation for such services is to be part of the NYSED established rates for the SEIS model.
- n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.

11. RESPONSIBILITIES OF SEIS AS THE COORDINATOR OF SERVICE

- a. It is the responsibility of the SEIS provider to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the provisions of Section 10 of this Contract, the coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations, and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.

- ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
- iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
- iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
- v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.
- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.

12. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$3,000,000 aggregate. The Contractor shall also maintain general liability insurance and will provide County with proof of coverage in the amount of \$1,000,000 per incident and \$3,000,000 aggregate. The Contractor agrees to have Oneida County named as an "additional insured," on a "primary, non-contributory basis, as its interests may appear" on the general liability policy and to provide the County with certificates from said insurance company or companies showing the proof of insurance as stated heretofore. The County reserves the right to require Contractor to provide insurance policies for review by the County. The Contractor grants the County a limited power of attorney to communicate with Contractor's insurance provider and/or agent for the express purpose of confirming the coverages required hereunder.

13. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

14. EXCLUSIVITY

- a. The County retains the right to reassign children receiving SEIS under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving SEIS in Oneida County.

15. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor and its employees to the County shall be that of Independent Contractors. The Contractor's employees shall not be considered employees of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance

with its status as an independent contractor, covenants and agrees that its employees will conduct themselves in accordance with such status, that they will neither hold themselves out as, nor claim to be, an officer or employee of the County by reason thereof and that they will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.

- b. Contractor warrants and represents that it is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor's employees shall not be eligible for compensation due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that its employees shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor or its employees under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's form of business organization, and with respect to its employees, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of workers' compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with Federal and State Laws as supplemented in the Department of Labor regulation and any other regulations of the Federal and State entities relating to such employment and Civil Rights requirements.

16. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

17. ENTIRE AGREEMENT

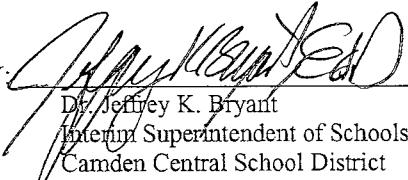
The terms of this Contract, the attached Standard Oneida County Conditions Addendum (which is attached hereto as Appendix A), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY:  _____
Dr. Jeffrey K. Bryant
Interim Superintendent of Schools
Camden Central School District

DATE: _____

DATE: 6-13-2018

Approved

BY: _____
Raymond F. Bara
Assistant Oneida County Attorney

APPENDIX A

STANDARD ONEIDA COUNTY CONDITIONS ADDENDUM

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
 - i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
- 2) The Contractor's policy of maintaining a drug-free workplace;
- 3) Any available drug counseling, rehabilitation, and employee assistance program; and
- 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;

C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;

D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:

- 1) Abide by the terms of the statement; and
- 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 7, 2018

FN 20 18-266

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

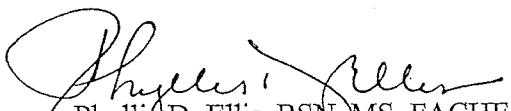
Attached are two (2) copies of an Agreement between Oneida County through its Health Department and Lisa Gilmore. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities. The term "related services" includes, but is not limited to services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

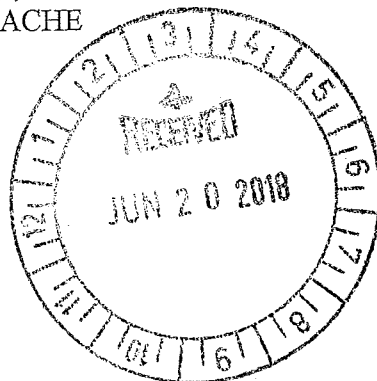
The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected total for three years is \$63,615 and is based on previous expenditures.

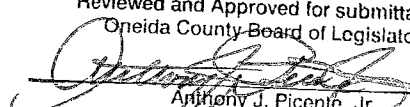
If this meets with your approval, please forward to the Board of Legislators.

Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health

CM



Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente, Jr.
County Executive
Date 6-20-18

Oneida Co. Department: Health

Competing Proposal X
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor:

Lisa Gilmore
211 West Sycamore St.
Rome, NY 13440

Title of Activity or Service:

Preschool Related Services

Proposed Dates of Operation:

July 1, 2018 to June 30, 2020

Client Population/Number to be Served:

Eligible preschool children in Oneida County with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, New York State requires that counties are to provide payment for related services rendered to eligible preschool aged children with disabilities.
- 2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of Education Law
- 3) **Program Design and Staffing** NA

Total Funding Requested: \$63,615 **Account#** **A2960.1953**
Rev A3277

Oneida County Dept. Funding Recommendation: \$63,615

Proposed Funding Sources (Federal \$/ State \$/County \$): State pays 59.5% County pays 40.5%

Cost Per Client Served: NA

Past Performance Data: 2017 expenditure was \$13,848.00. The first quarter of 2018 shows there was an increase of 53.13%.

O.C. Department Staff Comments: Estimated expenditure is \$21,205 per year.



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," and **LISA GILMORE**, 211 West Sycamore Street, Rome, NY 13440, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child's resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as "Appendix A." Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. **By Contractor:** Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. **By County:** This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the “payer of last resort.” Nothing herein shall preclude the child’s enrollment and initiation of services in accordance with the Board’s Notice of Determination. A copy is to remain in the Contractor’s file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter “SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter “CPSE”) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. Speech pathologists shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current ICD code. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be

- permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
 - e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
 - f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
 - g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
 - h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
 - i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
 - j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
 - k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
 - l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
 - m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
 - n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
 - o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor shall not be considered employee of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with her status as an independent contractor, covenants and agrees that she will conduct herself in accordance with such status, that she will neither hold herself out as, nor claim to be, an officer or employee of the County by reason thereof and that she will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that she is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that she shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

21. ENTIRE AGREEMENT

The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY: Lisa Gilmore
Lisa Gilmore

DATE: _____

DATE: 6/17/18

Approved

BY: _____
Raymond F. Bara
Assistant County Attorney

**APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE**

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE PER HALF- HOUR BLOCK
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Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
- i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
- i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
- ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
- c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
- i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building
Campus, Albany, NY 12240. Notice shall include the
identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. **Gratuities.** It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida;
and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

June 7, 2018

FN 20 18-267

Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

HEALTH & HUMAN SERVICES
WAYS & MEANS

Dear Mr. Picente:

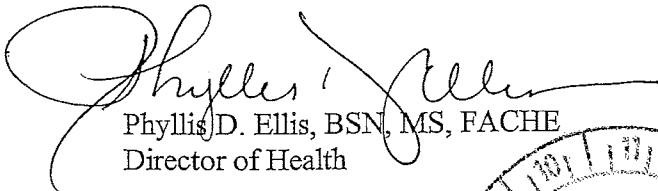
Attached are two (2) copies of an Agreement between Oneida County through its Health Department and Town Of Webb Union Free School District. Through this Agreement, the County will provide related services rendered to eligible preschool age children with disabilities.

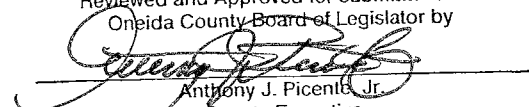
Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, counties are to provide payment for related services rendered to eligible preschool age children with disabilities. The term "related services" includes, but is not limited to, services such as audiology, occupational therapy, physical therapy, speech pathology, and psychological services.

The term of this agreement will commence July 1, 2018 through June 30, 2020. This is a New York State mandated program. New York State will reimburse the county 59.5% of the costs incurred. The expected total for three years is \$49,000 and is an estimate.

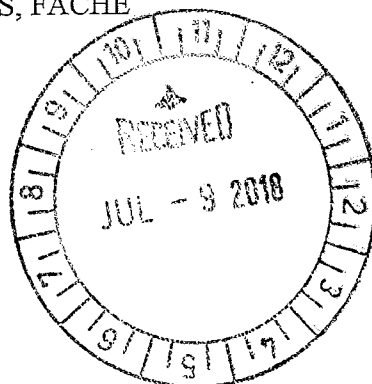
If this meets with your approval, please forward to the Board of Legislators.

Sincerely,


Phyllis D. Ellis, BSN, MS, FACHE
Director of Health

Reviewed and Approved for submittal to the
Oneida County Board of Legislators by

Anthony J. Picente Jr.
County Executive
Date 7-9-18

CM



Oneida Co. Department: Health

Competing Proposal X
Only Respondent _____
Sole Source RFP _____
Other _____

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: Town Of Webb Union Free School District
3002 Main Street, PO Box 38
Old Forge, NY 13420

Title of Activity or Service: Preschool Related Services

Proposed Dates of Operation: July 1, 2018 to June 30, 2020

Client Population/Number to be Served: Eligible preschool children in Oneida County with disabilities

Summary Statements

- 1) **Narrative Description of Proposed Services:** Under Section 4410 of the New York State Education Law and in compliance with Part 200 of the Regulations of the Commissioner of Education of the State of New York, New York State requires that counties are to provide payment for related services rendered to eligible preschool aged children with disabilities.
- 2) **Program/Service Objectives and Outcomes:** Compliance with NYS Department of Education Law.
- 3) **Program Design and Staffing** NA

Total Funding Requested: \$49,000

Account# A2960.1953
Rev act A3277

Oneida County Dept. Funding Recommendation: \$49,000

Proposed Funding Sources (Federal \$/ State \$/County \$): State pays 59.5% County pays 40.5%

Cost Per Client Served: NA

Past Performance Data: NA

O.C. Department Staff Comments: Estimated annual expenditure is \$16,333.00



ONEIDA COUNTY PRESCHOOL RELATED SERVICE CONTRACT

THIS CONTRACT, by and between the **COUNTY OF ONEIDA**, through its Health Department, a municipal corporation organized and existing under the laws of the State of New York, having its principal offices at 800 Park Avenue, Utica, New York 13501, hereinafter referred to as the "County," and **TOWN OF WEBB UNION FREE SCHOOL DISTRICT**, a union free school district organized and existing under the laws of the State of New York, having its principal office located at 3002 Main Street, PO Box 38, Old Forge, NY 13420, hereinafter referred to as the "Contractor."

WITNESSETH:

WHEREAS, the County is in need of the provision of related services to preschool children with disabilities pursuant to Section 4410 of the New York State Education Law and Part 200 of the Regulations of the Commissioner of Education, through the County's Education of Handicapped Children Program; and

WHEREAS, the Contractor has been approved by the Commissioner of Education of the State of New York to provide related services to preschool children with disabilities in accordance with Section 4410 of the New York State Education Law and in compliance with 8 NYCRR Part 200, to eligible preschool students with disabilities, as recommended by the Committee on Preschool Special Education and approved by the appropriate Board of Education from the child's resident school district;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM OF AGREEMENT

This Contract shall become effective July 1, 2018 and shall terminate on June 30, 2020, conditioned upon the continued availability of federal and/or New York State funds for the purpose set forth in this Contract. The County shall also have two (2) separate and consecutive options to extend this Contract. Each option shall be for one (1) year and shall be under the same terms and conditions contained in this Contract. Each such option shall be the sole and exclusive right of the County. Each option shall be exercised by the County in writing, and such option period shall commence upon the expiration of the immediately preceding Contract or option period.

2. RATES

Upon submission of a completed County voucher and required supporting documentation as discussed below for services rendered, the County shall pay the Contractor the rates set forth in the Oneida County Related Service Rates Schedule, attached hereto and incorporated hereto as "Appendix A." Any rate changes during the life of this contract will be submitted as amendments to this Contract.

3. TERMINATION

- a. By Contractor: Should the Contractor request termination of this Contract, a written notice of any such termination shall be provided to the County by the Contractor not less than ninety (90) days prior to the intended effective date of such action. In the event of such termination, the parties shall adjust the accounts due and the Contractor shall undertake no additional expenditures not already required.
- b. By County: This Contract may be terminated at any time by the County upon ten (10) days written notice to the Contractor. However, in the event the Contractor defaults in the performance of any of its obligations under this Contract, the County may terminate this Contract effective upon written notice at any time. Furthermore, should funds become unavailable or should appropriate Federal or New York State officials fail to approve sufficient funds for completion of the services or programs set forth in this Contract, the County shall have the option to immediately terminate this Contract upon providing written notice to the Contractor. In such event, the County shall be under no further obligation to the Contractor other than payment for costs actually incurred prior to termination and in no event will the County be responsible for any actual or consequential damages as a result of termination.

4. SCOPE OF SERVICES

Services performed pursuant to this Contract shall be provided in accordance with Section 4410 of the New York State Education Law and in compliance with the regulations of the Commissioner of Education of the State of New York set forth in 8 NYCRR 200.

- a. The Contractor shall provide appropriate Related Services for children with disabilities delivered on an itinerant basis subject to New York State Education Department (hereinafter "NYSED") and the appropriate Board of Education (hereinafter "BOE") approval. The parties hereto agree that "Related Services" as used herein shall have the same meaning as that term is defined in Section 4410 of the New York State Education Law and 8 NYCRR 200.1(qq).
- b. The Contractor shall provide Related Services for children with disabilities during the school year. The school year is hereby defined as a July/August session from July 1 through August 31 and/or a September/June session from September 1 through June 30.
- c. The Contractor cannot begin providing Related Services to a child with disabilities until the BOE has approved the Notification of Determination of Placement or STAC 1 (System to Track and Account for Children), if the BOE uses the STAC 1, outlining the appropriate Related Services to be provided by the Contractor. The start date will be indicated on the STAC 1 and a copy shall be provided to the Contractor.
- d. All financial arrangements for services under this Contract shall be between the County and Contractor as outlined in the section entitled "Conditions of Payment" below. The County will maintain an approved Oneida County Related Services Provider List and ensure that the Contractor is a referral from this list approved by the New York State Department of Education for the County of Oneida.

5. CONDITIONS OF PAYMENT:

The County, in accordance with the provisions of this Contract, shall reimburse the Contractor for expenditures made for contracted services as follows:

- a. The County will set rates for all related services delivered on an itinerant basis subject to NYSED approval.
- b. The County will provide payment of services rendered, as authorized on the child's Individualized Education Program (hereinafter "IEP") and the STAC 1 upon the Contractor's submission of a correctly completed voucher on a monthly basis. All submissions must include the required documentation as set forth in this Contract and any other documentation requested by the County. The Contractor shall maintain a copy of the child's IEP throughout the term of this Contract.
- c. The Contractor shall submit a voucher to the County for the services rendered not later than fifteen (15) days after the end of the July/August session and not later than fifteen (15) days after the end of each month for the September to June session.
- d. No payment shall be required to be made by the County prior to the receipt of Notification of Determination of Placement or STAC 1, if the BOE uses the STAC 1 as its notice of determination of placement.
- e. No parent or any person shall be required or requested to make payment for services in addition to the payments made by the County pursuant to this Contract.
- f. The Contractor must submit, for Medicaid eligible children, a signed Medicaid Provider Agreement and Reassignment form with the signed contract so the County can claim Medicaid reimbursement for the Related Services.

6. MEDICAID COMPLIANCE:

The Contractor shall provide with the voucher the following information for all Medicaid eligible children enrolled in its programs pursuant to Section 4410 of the New York State Education Law:

- a. Dates the child received a Related Service (e.g. physical therapy, speech therapy, occupational therapy, skilled nursing services and/or counseling, and transportation, as applicable).
- b. Documentation that each Related Service session was verified as delivered by the signature of the service provider.
- c. Copy of the Medicaid consent form to release child specific information signed by the parent of a child with a disability receiving Medicaid eligible services.
- d. All reporting requirements necessary for Medicaid compliance per Section 4410 of the New York State Education Law. The Contractor shall be responsible for reviewing Medicaid in Education notifications and changes, which can be found at <http://www.oms.nysed.gov/medicaid/>.
- e. Documentation evidencing the number of eligible Medicaid services by service type provided to each Medicaid eligible child pursuant to Section 4410 New York State Education Law.
- f. The Contractor shall obtain from the parent or person in parental relationship to the Medicaid eligible child receiving Related Services pursuant to Section 4410 of the New York State Education Law, the Client Identification Number (hereinafter "CIN"), period of eligibility and any other relevant third party health insurance information for

the purpose of establishing Medicaid as the “payer of last resort.” Nothing herein shall preclude the child’s enrollment and initiation of services in accordance with the Board’s Notice of Determination. A copy is to remain in the Contractor’s file.

7. COMPLIANCE WITH THE LAW

The Contractor agrees that while performing under the terms of this Contract that the Contractor shall comply with all federal, New York State statutes and regulations, and all local rules and regulations.

8. CHILD ABUSE/MALTREATMENT MANDATE

- a. In compliance with Section 4410 of the New York State Education Law and Section 424-a of the New York State Social Services Law, the Contractor is required to screen and be cleared through the State Central Register of Child Abuse and Maltreatment (hereinafter “SCR”).
- b. The Contractor is responsible for screening and obtaining clearance through the SCR for the following individuals: (1) Any person who is actively being considered for employment and who will have the potential for regular and substantial contact with children who receive preschool special education programs and Related Services; (2) Any person who is employed by an individual, corporation, partnership, or association that provides goods or services to approved preschool special education children.
- c. The Contractor is responsible for screening individuals through the SCR regardless of whether an individual has been screened through the SCR for employment or contract with another County or agency provider.
- d. The Contractor will not permit unsupervised contact between child and any potential employee or contractor before receiving a completed clearance and acceptable response from SCR.
- e. The Contractor will notify all individuals being screened that an inquiry will be made to the SCR and that this is a State requirement. The Contractor will establish procedures to ensure that the confidentiality of any SCR response is maintained. The Contractor will comply with SCR regulations in not screening employees more than once every six months, and one time only to the extent required by Section 424-a of the New York State Social Services Law for contractors, consultants and volunteers.
- f. Proof of SCR database check in accordance with Section 424-a of the New York State Social Services Law must be submitted to the County with the instant Contract and on an ongoing basis as required for special education services and programs for preschool children with disabilities.

9. CONFIDENTIALITY

The County and the Contractor shall hold in strict confidence all child records and disclose information and data in such records only to persons or entities as authorized or required by law or by written consent of the child’s representative. The Contractor further agrees to safeguard the confidentiality of financial and/or client information relating to individuals and their families who may receive services in the course of this Contract. The Contractor shall maintain the confidentiality of all such financial and/or client information with regard to services provided under this Contract in conformity with the provisions of applicable Federal, State, and local laws and regulations. Any breach of confidentiality by the Contractor, its agents or representatives shall be cause for immediate termination of this Contract.

10. REPORTING REQUIREMENTS

- a. Contractor employed therapists shall be presently qualified to provide Related Services in New York State and shall submit copies of all appropriate license(s) or certification(s) to the County and update these as necessary during the term of this Contract.
- b. Contractor agrees to attend Committee for Preschool Special Education (hereinafter “CPSE”) annual review meetings and program reviews as scheduled by the CPSE Chairperson or BOCES Coordinator for the child being served. The Contractor shall submit a copy of any reports necessary for review at these meetings to the County, as well as the CPSE Chairperson/BOCES Coordinator, at least ten (10) school days prior to the meeting date.
- c. **Speech pathologists** shall be required to obtain a written prescription (recommendation/order) for speech services signed and dated from (1) NYS Licensed and ASHA Certified Speech-Language Pathologist OR (2) a physician, physician’s assistant or nurse practitioner which denotes the appropriate and current **ICD code**. The NYS Licensed and ASHA Certified Speech-Language Pathologist cannot write a referral if they have not seen the preschool child. According to 18 NYCRR 505.11, a written order must contain a diagnostic statement and purpose of treatment. It is not acceptable for the ordering or referring professional never to have met with the child as it is incompatible with the obligations of the ordering practitioner to assure that the ordered care, services or supplies will meet the recipients needs and restore him/her to the best possible functional level. Physician, physician assistants or nurse practitioner’s orders must be dated on or before the initiation of service. No direct or consultation services will be

- permitted unless an appropriately written prescription is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
- d. **Physical Therapists** must obtain a signed prescription (order/recommendation) from a physician, physician assistant or nurse practitioner which denotes an ICD code.
 - e. **Occupational therapists** must obtain a signed prescription (order/recommendation) signed and dated by a licensed physician or nurse practitioner which denotes an ICD code.
 - f. No direct or consultation services can be delivered unless an appropriately signed and dated prescription by the appropriate professional is obtained. A copy of this prescription must also be forwarded to the County with the initial bill.
 - g. The Contractor must obtain a current copy of the IEP from the CPSE Chairperson prior to start of service which will follow the BOE approval date. This is applicable to any later program changes on the IEP as well. The Contractor shall deliver services as specified on the IEP in the areas of remediation, frequency and duration of Related Services.
 - h. The Contractor shall submit an attendance and progress note for each session the child received Related Services on a monthly basis at the minimum, or with the invoice, whichever is presented first. All progress notes submitted must also have the signature and National Provider Identification (NPI) number of this licensed individual and title as well as the direct service provider and title.
 - i. The Contractor shall call the CPSE chairperson for a program review if services cannot be delivered as indicated on IEP due to child's absence, or if the therapist recommends a change in service or discharge.
 - j. The Contractor shall forward a copy of all documentation and justification for 12-month programming to the County and the CPSE prior to any scheduled program review or annual review, whenever such is recommended.
 - k. The Contractor shall meet with the child's parent/guardian at such times as appropriate during the year to discuss goals and progress. Whenever services are to be delivered in conjunction with a general education preschool program, the Contractor shall work with the program by communicating with staff, parents, school district and other therapists. An attempt will also be made to provide parent/guardian with follow up materials to be used at home to reinforce delivery of related services.
 - l. The Contractor shall inform the parent/guardian of his/her responsibility to ensure that the child's attendance enables him/her to benefit from the related services provided. The parent/guardian should be made aware of the need to alert the Contractor in a timely manner when the child will be absent or not available for Related Services if provided in the home.
 - m. If two or more Related Services are required for a child, the CPSE Chairperson shall select one of the therapists to act as a Coordinator of Service. If the CPSE determines that a Special Education Itinerant Teacher (hereinafter "SEIT") is to be provided in conjunction with one or more Related Services, the SEIT shall be responsible for the coordination of such services pursuant to Regulations of the Commissioner of Education. Compensation for such services is to be part of the NYSED established rates for the SEIT model.
 - n. The Contractor's progress notes addressing goals and objectives on the IEP must be completed quarterly. A copy of the progress notes must be provided to the parent, the CPSE Chairperson and the County.
 - o. Upon expiration of the term of this Contract, all files and records shall be retained by the Contractor for six (6) years from the last date of payment under this Contract.

11. RESPONSIBILITIES OF THE COORDINATOR OF SERVICE

- a. When two or more Related Services are mandated (not in conjunction with SEIT), the CPSE Chairperson will designate the coordinator of services from the list of approved Related Service providers maintained by the County. The coordinator must be one of the individuals/agencies providing Related Services to the child, as specified by the CPSE. It is suggested that, to the extent possible, service providers be selected from the same agency. It is the responsibility of the coordinator to stay thoroughly informed on all facets of the services provided to the child. In addition to duties as outlined in the section entitled "Reporting Requirements" above, the designated coordinator will perform appropriate coordination activities including but not limited to:
 - i. Arranging the schedule for service delivery, offering recommendations and consulting with the CPSE chairperson to resolve scheduling issues when appropriate.
 - ii. Sharing appropriate information with other Related Service providers for the appropriate integration of such services.
 - iii. Gathering appropriate progress reports and anecdotal information relating to the student's progress from all Related Service providers to ensure that the Coordinator has a general knowledge of the child's progress, as well as any significant considerations, in the Related Service area.
 - iv. Attend Annual Review meeting and other meetings, if requested by the CPSE chairperson. The coordinator is responsible to have all information on the child's progress and needs and is expected to represent the other therapists involved in the child's care at the CPSE meetings.
 - v. Conducting activities such as telephone conferences or other communication practices. Coordination activities must be documented and reported in half-hour service blocks on the Coordination Service Form.

- vi. Coordination services can be provided only by a licensed speech pathologist, physical therapist and occupational therapist.
- b. Billing for Coordination services shall not exceed 10 sessions or service blocks during a September/June session and 2 sessions or service blocks during a July/August session per child. One (1) session or service block consists of a half-hour and will be paid at the rate indicated under the Oneida County Related Service Rates Schedule. Each date of contact and length of time claimed for coordination during the month must be listed and identified. Periods of less than a half-hour block may be combined into half-hour service blocks of coordination services for billing purposes.

12. MAKE UP POLICY

- a. Reporting Absences. Habitual absences by the student should be reported to the school district (CPSE) and the Special Education Itinerant Teacher (SEIT) if the child receives SEIT services; if the child receives two or more Related Services, habitual absences shall be reported to the assigned Related Service coordinator appointed by the CPSE Chairperson.
- b. Student Absence or Cancellation. There shall be no makeup for therapy sessions provided under 4410 services which are missed due to a child's absence or cancellation (with or without notice). If a child's illness will necessitate canceling of service for several consecutive sessions, please request the parent/guardian call you to commence Related Services.
- c. Therapist Absence or Cancellation. Related Services which are missed due to the absence or cancellation of the therapist may be made up if the parent consents and the therapist's schedule permits. The makeup sessions must take place within the same week the Related Service was missed.
- d. Prolonged Absence of Therapist. When the therapist is absent for a prolonged period of time, the school district should be notified. The school district is responsible for arranging the replacement for the absent therapist. The school district is responsible for notifying the County of any change of a Related Service provider prior to the change so the County may give the new provider permission to begin services.
- e. Holidays and Other School Closings. The Contractor will follow the calendar of the local school district in which the child resides. Therefore, holiday and other school closings of that particular school district will apply. When Related Services are provided in a mainstream preschool setting, the preschool calendar will be followed except where written prior arrangements have been mandated by the school district and approved by the County.
- f. Limitations on Scheduling Therapy Makeup Sessions. Make up sessions must be clearly documented on the appropriate session notes with reasons for the makeup session.

13. INSURANCE

The Contractor shall maintain a professional liability policy and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate during the term of this Contract. The Contractor shall also maintain general liability insurance and will provide the County with proof of coverage in the amount of \$1,000,000 per incident and \$2,000,000 aggregate. The Contractor agrees to have the County named as "additional insured" on the general liability policy and to provide the County with certificates from said insurance company or companies showing proof of insurance as stated heretofore. The Contractor further agrees to provide that such coverage shall not be terminated without prior notice to the County of at least thirty (30) days. The Contractor grants Oneida County a limited power of attorney to communicate with the Contractor's insurance provider and/or agent for the express purpose of confirming the coverage required hereunder.

14. INDEMNIFICATION

The Contractor agrees that it shall defend, indemnify and hold harmless the County from and against all liability, damages, expenses, costs, causes of actions, suits, claims or judgments arising, occurring or resulting from property damage, personal injuries or death to persons arising, occurring or resulting from or out of the work of the Contractor or its agents, contractors, subcontractors, servants or employees, and from any loss or damage arising, occurring or resulting from the acts or failure to act or any default or negligence by the Contractor or failure on the part of the Contractor to comply with any of the covenants, terms or conditions of this Contract.

15. EXCLUSIVITY

- a. The County retains the right to reassign children receiving Related Services under the terms of this Contract to other Contractors or its own employees.
- b. The County retains the right to contract with other independent contractors for such services which are the same or similar to those provided by the Contractor, or to provide such services to its eligible children through its own employees. The Contractor retains the right to provide services directly or indirectly through contract with another agency, to persons who are not classified preschool aged children with a disability receiving Related Services in Oneida County.

16. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly agreed that the relationship of the Contractor to the County shall be that of an Independent Contractor. The Contractor shall not be considered employee of the County for any purpose including, but not limited to, claims for unemployment insurance, workers' compensation, retirement, or health benefits. The Contractor, in accordance with her status as an independent contractor, covenants and agrees that she will conduct herself in accordance with such status, that she will neither hold herself out as, nor claim to be, an officer or employee of the County by reason thereof and that she will not by reason thereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- b. Contractor warrants and represents that she is in the business of offering the same or similar services detailed herein and does offer the same or similar service(s) to other entities and/or the general public as a regular course of business. Contractor and County agree that Contractor is free to undertake other work arrangements during the term of this Contract, and may continue to make its services available to the public.
- c. The Contractor shall not be eligible for compensation from the County due to a) illness; b) absence due to normal vacation; c) absence due to attendance at school or special training or a professional convention or meeting.
- d. Contractor acknowledges and agrees that she shall not be eligible for any County employee benefits, including retirement membership credits.
- e. Contractor shall be paid pursuant to IRS Form 1099, and shall be solely responsible for applicable taxes for all compensation paid to Contractor under this Contract, and for compliance with all applicable labor and employment requirements with respect to Contractor's self-employment, sole proprietorship or other form of business organization, and with respect to the employees and agents, including payroll deductions, workers' compensation insurance, and provision of health insurance where required. The County shall not be responsible for withholding from the payments provided for services rendered for State or Federal income tax, unemployment insurance, workers' compensation, disability insurance or social security insurance (FICA). Contractor shall provide proof of worker's compensation insurance, where applicable, prior to execution of this Contract.
- f. The Contractor will indemnify and hold the County harmless from all loss or liability incurred by the County as a result of the County not making such payments or withholdings.
- g. If the Internal Revenue Service, Department of Labor, or any other governmental agency questions or challenges the Contractor's Independent Contractor status, it is agreed that both the County and the Contractor shall have the right to participate in any conference, discussion, or negotiations with the governmental agency, irrespective of with whom or by whom such discussions or negotiations are initiated.
- h. The Contractor agrees to comply with federal and state laws as supplemented in the United States Department of Labor regulation and any other regulations of the federal and state entities relating to such employment and civil rights requirements.

17. SUBCONTRACT

The Contractor may not assign the Contractor's rights and obligations under this Contract, or subcontract with or employ another to provide the services described above of this Contract, without the prior written consent of the County.

18. EXPENSES

Contractor is solely responsible for paying all of its business expenses related to furnishing the services described herein, and shall not be reimbursed the cost of travel, equipment, tools, office space, support services or other general operating expenses.

19. TRAINING

Contractor shall not be required to attend or undergo any training by the County. Contractor shall be fully responsible for its own training necessary to maintain any licenses or certifications to perform the services described herein, and shall be solely responsible for the cost of the same.

20. ADVICE OF COUNSEL

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of this Contract.

ENTIRE AGREEMENT

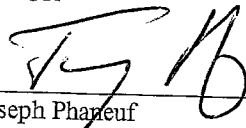
The terms of this contract, the Oneida County Related Service Rates Schedule, the attached Standard Oneida County Conditions Addendum (Appendix B), and any other attachments, amendments, addendums or appendixes attached hereto, are deemed incorporated herein in their entirety and constitute the entire understanding and agreement of the parties and cancels and supersedes all prior negotiations, representations, understandings or agreements, whether written or oral, with respect to the subject matter of this Contract. No waiver, alterations or modifications of and provisions of this Contract shall be binding unless in writing and signed by the duly authorized representative of the parties sought to be bound.

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

ONEIDA COUNTY

CONTRACTOR

BY: _____
Anthony J. Picente Jr.
Oneida County Executive

BY:  _____
Joseph Phaneuf
Board of Education President

DATE: _____

DATE: 6/29/18

Approved

BY: _____
Raymond F. Bara
Assistant County Attorney

**APPENDIX A
ONEIDA COUNTY RELATED SERVICE RATES SCHEDULE**

RELATED SERVICE	MAXIMUM INDIVIDUAL HALF HOUR RATE	MAXIMUM COORDINATOR RATE
PER HALF-		HOUR BLOCK

Audiology	\$53	\$30
Assistive Technology Services	\$53	
Counseling Services	\$53	\$30
Occupational Therapy	\$53	\$30
Orientation & Mobility Services	\$53	
Physical Therapy	\$53	\$30
Speech Therapy	\$53	\$30
Teacher of Hearing Impaired	\$53	
Teacher of Visually Impaired	\$53	
Aide 1:1	\$10	

RELATED SERVICE	MAXIMUM GROUP HALF HOUR RATE
Assistive Technology Services	\$25.00
Audiology	\$25.00
Counseling Services	\$25.00
Occupational Therapy	\$25.00
Physical Therapy	\$25.00
Speech Therapy	\$25.00
Teacher of Hearing Impaired	\$25.00
Teacher of Visually Impaired	\$25.00

APPENDIX B

ADDENDUM --STANDARD ONEIDA COUNTY CONDITIONS

THIS ADDENDUM, entered into on this _____ day of _____, 20____, between the County of Oneida, hereinafter known as County, and a Contractor, subcontractor, vendor, vendee, licensor, licensee, lessor, lessee or any third party, hereinafter known as Contractor.

WHEREAS, County and Contractor have entered into a contract, license, lease, amendment or other agreement of any kind (hereinafter referred to as the "Contract"), and

WHEREAS, the Oneida County Attorney and the Oneida County Director of Purchasing have recommended the inclusion of the standard clauses set forth in this Addendum to be included in every Contract for which County is a party, now, thereafter,

The parties to the attached Contract, for good consideration, agree to be bound by the following clauses which are hereby made a part of the Contract.

1. EXECUTORY OR NON-APPROPRIATION CLAUSE.

The County shall have no liability or obligation under this Contract to the Contractor or to anyone else beyond the annual funds being appropriated and available for this Contract.

2. ONEIDA COUNTY BOARD OF LEGISLATORS: RESOLUTION #249 SOLID WASTE DISPOSAL REQUIREMENTS.

Pursuant to Oneida County Board of Legislator Resolution No. 249 of May 26, 1999, the Contractor agrees to deliver exclusively to the facilities of the Oneida-Herkimer Solid Waste Authority, all waste and recyclables generated within the Authority's service area by performance of this Contract by the Contractor and any subcontractors. Upon awarding of this Contract, and before work commences, the Contractor will be required to provide Oneida County with proof that Resolution No. 249 of 1999 has been complied with, and that all wastes and recyclables in the Oneida-Herkimer Solid Waste Authority's service area which are generated by the Contractor and any subcontractors in performance of this Contract will be delivered exclusively to Oneida-Herkimer Solid Waste Authority facilities.

3. CERTIFICATIONS REGARDING LOBBYING, DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS, AND DRUG-FREE WORKPLACE REQUIREMENTS.

- a. Lobbying. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110, the Contractor certifies that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the Contractor shall complete and submit Standard Form 111 "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - iii. The Contractor shall require that the language of this certification be included in the award documents for all subcontracts and that all subcontractors shall certify and disclose accordingly.
- b. Debarment, Suspension and other Responsibility Matters. As required by Executive Order 12549, Debarments and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 83.105 and 85.110,
 - i. The Contractor certifies that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- B. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted or otherwise criminally or civilly charged by a Government entity (federal, state or local) with commission of any of the offenses enumerated in subparagraph (B), above, of this certification; and
 - D. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) for cause or default;
 - ii. Where the Contractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this Contract.
 - c. Drug-Free Workplace (Contractors other than individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:
 - i. The Contractor will or will continue to provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:

- 1) The dangers of drug abuse in the workplace;
 - 2) The Contractor's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance program; and
 - 4) The penalties that may be imposed upon an employee for drug abuse violation occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (A), above;
- D. Notifying the employee in the statement required by paragraph (A), above, that as a condition of employment under the Contract, the employee will:
- 1) Abide by the terms of the statement; and
 - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- E. Notifying the County, in writing within ten (10) calendar days after having received notice under subparagraph (D)(2), above, from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, New York 12240. Notice shall include the identification number(s) of each affected contract.

F. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (D)(2), above, with respect to any employee who is so convicted;

1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency;

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F), above.

ii. The Contractor may insert in the space provided below the site(s) for the performance of work done in connection with the specific contract.

Place of Performance (street, address, city, county, state, zip code).

d. Drug-Free Workplace (Contractors who are individuals). As required by the Drug-Free Workplace act of 1988, and implemented at 34 CFR Part 85, Subpart F, for Contractors that are individuals, as defined at 34 CFR Part 85, Sections 85.605 and 85.610:

i. As a condition of the contract, the Contractor certifies that he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Contract; and

- ii. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any contract activity, the Contractor will report the conviction, in writing, within ten (10) calendar days of the conviction, to:

Director, Grants Management Bureau, State Office Building Campus, Albany, NY 12240. Notice shall include the identification number(s) of each affected Contract.

4. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

When applicable to the services provided pursuant to the Contract:

- a. The Contractor, as a Business Associate of the County, shall comply with the Health Insurance Portability and Accountability Act of 1996, hereinafter referred to as "HIPAA," as well as all regulations promulgated by the Federal Government in furtherance thereof, to assure the privacy and security of all protected health information exchanged between the Contractor and the County. In order to assure such privacy and security, the Contractor agrees to enact the following safeguards for protected health information:
 - i. Establish policies and procedures, in written or electronic form, that are reasonably designed, taking into consideration the size of, and the type of activities undertaken by, the Contractor, to comply with the Standards for Privacy of Individual Identifiable Health Information, commonly referred to as the Privacy Rule;
 - ii. Utilize a combination of electronic hardware and computer software in order to securely store, maintain, transmit, and access, protected health information electronically; and
 - iii. Utilize an adequate amount of physical hardware, including but not limited to, locking filing cabinets, locks on drawers, other cabinets and office doors, in order to prevent unwarranted and illegal access to computers and paper files that contain protected health information of the County's clients.
- b. This agreement does not authorize the Contractor to use or further disclose the protected health information that the Contractor handles in treating patients of the

County in any manner that would violate the requirements of 45 CFR § 164.504(e), if that same use or disclosure were done by the County, except that:

- i. The Contractor may use and disclose protected health information for the Contractor's own proper management and administration; and
- ii. The Contractor may provide data aggregation services relating to the health care operations of the County.

c. The Contractor shall:

- i. Not use or further disclose protected health information other than as permitted or required by this contract or as required by law;
- ii. Use appropriate safeguards to prevent the use or disclosure of protected health information other than as provided for in this Contract;
- iii. Report to the County any use or disclosure of the information not provided for by this Contract of which the Contractor becomes aware;
- iv. Ensure that any agents, including a subcontractor, to whom the Contractor provides protected health information received from, or created or received by the Contractor on behalf of the County, agrees to the same restrictions and conditions that apply to the Contractor with respect to such protected health information;
- v. Make available protected health information in accordance with 45 CFR §164.524;
- vi. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.528;
- vii. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR § 164.528;

- viii. Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by, the Contractor on behalf of the County available to the Secretary of Health and Human Services for purposes of determining the County's compliance with 45 CFR § 164.504(e)(2)(ii); and
 - ix. At the termination of this Contract, if feasible, return or destroy all protected health information received from, or created or received by, the Contractor on behalf of the County that the Contractor still maintains, in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Contract permanently to such information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- d. The Contractor agrees that this contract may be amended if any of the following events occurs:
- i. HIPAA, or any of the regulations promulgated in furtherance thereof, is modified by Congress or the Department of Health and Human Services;
 - ii. HIPAA, or any of the regulations promulgated in furtherance thereof, is interpreted by a court in a manner impacting the County's HIPAA compliance; or
 - iii. There is a material change in the business practices and procedures of the County.
- e. Pursuant to 45 CFR § 164.504(e)(2)(iii), the County is authorized to unilaterally terminate this Contract if the County determines that the Contractor has violated a material term of this Contract.

5. NON-ASSIGNMENT CLAUSE.

In accordance with Section 109 of the General Municipal Law, this Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the County's previous written consent, and any attempts to do so

are null and void. The Contractor may, however, assign its right to receive payments without the County's prior written consent unless this Contract concerns Certificates of Participation pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS.

In accordance with Section 108 of the General Municipal Law, this Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

7. NON-DISCRIMINATION REQUIREMENTS.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a Contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 of the Labor Law, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. The Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Contract and forfeiture of all monies due hereunder for a second or subsequent violation.

8. WAGE AND HOURS PROVISIONS.

If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 of the Labor Law, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said Articles, except as otherwise provided in the Labor Law and as set

forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done upon the project.

9. NON-COLLUSIVE BIDDING CERTIFICATION.

In accordance with Section 103-d of the General Municipal Law, if this Contract is awarded based upon the submission of bids, the Contractor certifies and affirms, under penalty of perjury, as to its own organization, under penalty of perjury, that to the best of its 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; and (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; and (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. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on the Contractor's behalf.

10. RECORDS.

The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertaining to performance under this Contract (hereinafter, collectively, "the Records"). The Records shall include, but not be limited to, reports, statements, examinations, letters, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, electronic files, e-mails (and all attachments thereto), rules, regulations and codes. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County Comptroller, the County Attorney and any other person or entity authorized to conduct an audit or examination, as well as the agency or agencies involved in this Contract, shall have access to the Records during normal business hours at an office of the Contractor within the County or, if no such office is available, at a mutually agreeable and reasonable venue within the County, for the term specified above, for the purposes of inspection, auditing and copying. The County shall take reasonable steps to protect from

public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute"), provided that: (a) the Contractor shall timely inform an appropriate County official, in writing, that said records should not be disclosed; (b) said records shall be sufficiently identified; and (c) in the sole discretion of the County, designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the County's right to discovery in any pending or future litigation. Notwithstanding any other language, the Records may be subject to disclosure under the New York Freedom of Information Law, for other applicable state or federal law, rule or regulation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

- a. Identification Number(s). Every invoice or claim for payment submitted to a County agency by a payee, for payment for the sale of goods or service or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. This number includes any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Where the payee does not have such number or numbers, the payee, on its invoice or claim for payment, must state with specificity the reason or reasons why the payee does not have such number or numbers.
- b. Privacy Notification. (i) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the County is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their liabilities and to generally identify persons affected by the taxes administered by the New York State Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (ii) The personal information is requested by the County's purchasing unit contracting to purchase goods or services or lease the real or personal property covered by this Contract.

12. CONFLICTING TERMS.

In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this Addendum, the terms of this Addendum shall control.

13. GOVERNING LAW.

This Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.

The Contractor certifies and warrants that all wood products to be used under this Contract award will be acquired in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

In addition, when any portion of this Contract involving the use of woods, whether for supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with approval of the County; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the sole responsibility of the Contractor to establish to meet with the approval of the County.

15. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.

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

16. GRATUITIES AND KICKBACKS.

- a. Gratuities. It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from

another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request; influencing the content of any specification or procurement standard; rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application; request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

- b. Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. AUDIT

The County, the State of New York, and the United States shall have the right at any time during the term of this agreement and for the period limited by the applicable statute of limitations to audit the payment of monies hereunder. The Contractor shall comply with any demands made by the County to provide information with respect to the payment of monies made hereunder during the period covered by this paragraph. The Contractor shall maintain its books and records in accordance with generally accepted accounting principles or such other method of account which is approved in writing by the County prior to the date of this agreement. The revenues and expenditures of the Contractor in connection with this agreement shall be separately identifiable. Each expenditure or claim for payment shall be fully documented. Expenditures or claims for payment which are not fully documented may be disallowed. The Contractor agrees to provide to, or permit the County to examine or obtain copies of, any documents relating to the payment of money to the Contractor or expenditures made by the Contractor for which reimbursement is requested to be made or has been made to the Contractor by the County. The Contractor shall maintain all records required by this paragraph for 7 years after the date this agreement is terminated or ends.

If the Contractor has expended, in any fiscal year, \$300,000.00 or more in funds provided by a federal financial assistance program from a federal agency pursuant to this agreement and all other contracts with the County, the Contractor shall provide the County with an audit prepared by an independent auditor in accordance with the Single Audit Act of 1984, 31 U.S.C. §§ 7501, et seq., as amended, and the regulations adopted pursuant to such Act.

18. CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT.

Pursuant to Section 103-g of the General Municipal Law, by submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each bidder or Contractor, or any person signing on behalf of any bidder or Contractor, and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the Office of General Services (hereinafter "OGS") website, that to the best of its knowledge and belief, that each bidder or Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to State Finance Law § 165-a(3)(b).

Additionally, the bidder or Contractor is advised that once the Prohibited Entities List is posted on the OGS website, any bidder or Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a bidder or Contractor is in violation of the above-referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he, she or it has ceased engagement in the investment which is in violation of the Iran Divestment Act of 2012 within ninety (90) days after the determination of such violation, then the County shall take such action as may be appropriate, including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the bidder or Contractor in default.

The County reserves the right to reject any bid or request for assignment for a bidder or Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any bidder or Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

19. PROHIBITION ON TOBACCO AND E-CIGARETTE USE ON COUNTY PROPERTY

Pursuant to Local Law No. 3 of 2016, the use of tobacco and e-cigarettes are prohibited on Oneida County property, as follows:

- a. For the purposes of this provision, the "use of tobacco" shall include:
 - i. The burning of a lighted cigarette, pipe, cigar or other lighted instrument for the purpose of smoking tobacco or a tobacco substitute;
 - ii. The use of tobacco and/or a substance containing tobacco or a tobacco substitute by means other than smoking, including:

chewing; holding in the mouth; or expectoration of chewing tobacco.

- b. For the purposes of this provision, “e-cigarette” shall mean an electronic device composed of a mouthpiece, heating element, battery and electronic circuit that delivers vapor which is inhaled by an individual user as he or she simulates smoking.
- c. For the purposes of this provision, “on Oneida County property” shall be defined as:
 - i. Upon all real property owned or leased by the County of Oneida; and
 - ii. Within all County of Oneida-owned vehicles or within private vehicles when being used for a County of Oneida purpose, except that a driver may smoke in a privately-owned vehicle being used for a County of Oneida Purpose if the driver is the sole occupant of the vehicle.
- d. Each violation of this Local Law No. 3 of 2016 shall constitute a separate and distinct offense and may be punishable by a fine of up to \$200.00 for a first offense and up to \$1,000.00 for subsequent offenses.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138

FN 20 18268

July 5, 2018

Hon. Anthony J. Picente, Jr.
Oneida County Executive
800 Park Avenue
Utica, New York 13501

HEALTH & HUMAN SERVICES

WAYS & MEANS

Dear Mr. Picente:

Attached are two (2) copies of a grant between Oneida County, through its Health Department, and the New York State Department of Health. This grant titled **Community Cancer Prevention in Action Grant of Oneida, Madison, and Herkimer Counties** was awarded to Oneida County to reduce the occurrence of various cancers using a coordinated policy, systems and environment approach with organizations and municipalities in Oneida, Madison, and Herkimer Counties.

This is a multiyear agreement beginning October 1, 2018 through September 30, 2023. The reimbursement is \$225,000.00 annually for a total of \$1,125,000.00.

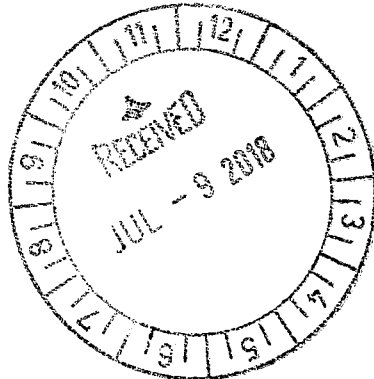
This grant requires an electronic signature in **Grants Gateway**. If this meets with your approval please forward to the Board of Legislators.

Sincerely,

Phyllis D. Ellis /PB

Phyllis D. Ellis, BSN, MS, FACHE
Director of Health

CM



Reviewed and Approved for submittal to the
Oneida County Board of Legislator by
Anthony J. Picente, Jr.
Anthony J. Picente, Jr.
County Executive
Date 7-9-18

Oneida Co. Department: Public Health

Competing Proposal _____
Only Respondent _____
Sole Source RFP _____
Other X

**ONEIDA COUNTY BOARD
OF LEGISLATORS**

Name & Address of Vendor: New York State Department of Health
Div. of Chronic Disease Prevention
Empire State Plaza Corning Tower, Room 1025
Albany, New York 12237-0675

Title of Activity or Service: Cancer Prevention in Action

Proposed Dates of Operation: October 1, 2018 through September 30, 2023

Client Population/Number to be Served: Oneida, Madison, and Herkimer County residents

Summary Statements

1) Narrative Description of Proposed Services

This grant titled Cancer Prevention in Action was awarded to Oneida County to reduce cancer using a coordinated policy, systems and environment approach with organizations and municipalities in Oneida, Madison, and Herkimer Counties.

2) Program/Service Objectives and Outcomes: Reduce cancer occurrences through decreasing UV exposure and emphasizing sun safety; support increased screening and early detection of breast, cervical and colorectal cancer through paid time off policies and promotion of the HPV vaccine.

3) Program Design and Staffing: This grant will provide funds for two full time staff in the Health Department.

Total Funding Requested: \$1,125,000 **Account#:** A4091 (Expense)
A3451 (Revenue)

Oneida County Dept. Funding Recommendation: \$1,125,000

Proposed Funding Sources (Federal \$/ State\$/ County\$): New York State

Cost Per Client Served: N/A

Past Performance Data: N/A

O.C. Department Staff Comments: This is a new program and related funds from New York State.

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>STATE AGENCY (Name & Address):</p> <p>Department of Health</p> <p>Department of Health Coming Tower Empire State Plaza Albany, NY 12237</p>	<p>BUSINESS UNIT/DEPT. ID: DOH01</p> <p>CONTRACT NUMBER: DOH01-C33741GG-3450000</p> <p>CONTRACT TYPE:</p> <p><input checked="" type="checkbox"/> Multi-Year Agreement</p> <p><input type="checkbox"/> Simplified Renewal Agreement</p> <p><input type="checkbox"/> Fixed Term Agreement</p>
<p>CONTRACTOR SFS PAYEE NAME:</p> <p>ONEIDA COUNTY OF</p>	<p>TRANSACTION TYPE:</p> <p><input checked="" type="checkbox"/> New</p> <p><input type="checkbox"/> Renewal</p> <p><input type="checkbox"/> Amendment</p>
<p>CONTRACTOR DOS INCORPORATED NAME:</p> <p>Oneida County Public Health Department</p>	<p>PROJECT NAME:</p> <p>Community Cancer Prevention in Action Grant of Oneida, Madison, and Herkimer Counties</p>
<p>CONTRACTOR IDENTIFICATION NUMBERS:</p> <p>NYS Vendor ID Number: 1000002595</p> <p>Federal Tax ID Number: 156000460</p> <p>DUNS Number (if applicable): 075814186</p>	<p>AGENCY IDENTIFIER:</p> <p>CFDA NUMBER (Federally Funded Grants Only):</p>
<p>CONTRACTOR PRIMARY MAILING ADDRESS:</p> <p>800 PARK AVE UTICA, NY 13501</p> <p>CONTRACTOR PAYMENT ADDRESS:</p> <p><input type="checkbox"/> Check if same as primary mailing address</p> <p>185 GENESEE ST 4TH FL UTICA, NY 13501</p> <p>CONTRACT MAILING ADDRESS:</p> <p><input type="checkbox"/> Check if same as primary mailing address</p> <p>185 GENESEE ST 4TH FL UTICA, NY 13501</p>	<p>CONTRACTOR STATUS:</p> <p><input type="checkbox"/> For Profit</p> <p><input checked="" type="checkbox"/> Municipality, Code: 300100000000</p> <p><input type="checkbox"/> Tribal Nation</p> <p><input type="checkbox"/> Individual</p> <p><input type="checkbox"/> Not-for-Profit</p> <p>Charities Registration Number:</p> <p>Exemption State/Code:</p> <p><input type="checkbox"/> Sectarian Entity</p>

Contract Number: # DOH01-C33741GG-3450000

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

<p>CURRENT CONTRACT TERM:</p> <p>From: 10/01/2018 To: 09/30/2023</p> <p>CURRENT CONTRACT PERIOD:</p> <p>From: 10/01/2018 To: 09/30/2023</p> <p>AMENDED TERM:</p> <p>From: To:</p> <p>AMENDED PERIOD:</p> <p>From: To:</p>	<p>CONTRACT FUNDING AMOUNT</p> <p>(Multi-year - enter total projected amount of the contract; Fixed Term/Simplified Renewal - enter current period amount):</p> <p>CURRENT: \$1,125,000.00</p> <p>AMENDED:</p> <p>FUNDING SOURCE(S)</p> <p><input checked="" type="checkbox"/> State</p> <p><input type="checkbox"/> Federal</p> <p><input type="checkbox"/> Other</p>
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FOR MULTI-YEAR AGREEMENTS ONLY - CONTRACT AND FUNDING AMOUNT:

(Out years represents projected funding amounts)

#	CURRENT PERIOD	CURRENT AMOUNT	AMENDED PERIOD	AMENDED AMOUNT
1	10/01/2018-09/30/2019	\$225,000.00		
2	10/01/2019-09/30/2020	\$225,000.00		
3	10/01/2020-09/30/2021	\$225,000.00		
4	10/01/2021-09/30/2022	\$225,000.00		
5	10/01/2022-09/30/2023	\$225,000.00		

Contract Number: # DOH01-C33741GG-3450000

STATE OF NEW YORK MASTER CONTRACT FOR GRANTS FACE PAGE

ATTACHMENTS PART OF THIS AGREEMENT:

Attachment A: A-1 Program Specific Terms and Conditions
 A-2 Federally Funded Grants

Attachment B: B-1 Expenditure Based Budget
 B-2 Performance Based Budget
 B-3 Capital Budget
 B-4 Net Deficit Budget
 B-1 (A) Expenditure Based Budget (Amendment)
 B-2 (A) Performance Based Budget (Amendment)
 B-3 (A) Capital Budget (Amendment)
 B-4 (A) Net Deficit Budget (Amendment)

Attachment C: Work Plan

Attachment D: Payment and Reporting Schedule

Other: Attachment M

Contract Number: # DOH01-C33741GG-3450000

IN WITNESS THEREOF, the parties hereto have electronically executed or approved this Master Contract on the dates below their signature.

In addition, I, acting in the capacity as Contractor, certify that I am the signing authority, or have been delegated or designated formally as the signing authority by the appropriate authority or officials, and as such I do agree, and I have the authority to agree, to all of the terms and conditions set forth in the Master Contract, including all appendices and attachments. I understand that (i) payment of a claim on this Master Contract is conditioned upon the Contractor's compliance with all applicable conditions of participation in this program and (if I am acting in the capacity as a not-for profit Contractor) the accuracy and completeness of information submitted to the State of New York through the Gateway vendor prequalification process and (ii) by electronically indicating my acceptance of the terms and conditions of the Master Contract, I certify that (a) to the extent that the Contractor is required to register and/or file reports with the Office of Attorney General's Charities Bureau ("Charities Bureau"), the Contractor's registration is current, all applicable reports have been filed, and the Contractor has no outstanding requests from the Charities Bureau relating to its filings and (b) all data and responses in the application submitted by the Contractor are true, complete and accurate. I also understand that use of my assigned User ID and Password on the State's contract management system is equivalent to having placed my signature on the Master Contract and that I am responsible for any activity attributable to the use of my User ID and Password. Additionally, any information entered will be considered to have been entered and provided at my direction. I further certify and agree that the Contractor agrees to waive any claim that this electronic record or signature is inadmissible in court, notwithstanding the choice of law provisions.

CONTRACTOR:
ONEIDA COUNTY OF

By: _____

Printed Name

Title: _____

Date: _____

In addition, the party below certifies that it has verified the electronic signature of the Contractor to this Master Contract.

STATE AGENCY:

Department of Health

By: _____

Printed Name

Title: _____

Date: _____

ATTORNEY GENERAL'S SIGNATURE
APPROVED AS TO FORM

By: _____

Printed Name

Title: _____

Date: _____

STATE COMPTROLLER'S SIGNATURE

By: _____

Printed Name

Title: _____

Date: _____

Contract Number: # DOH01-C33741GG-3450000

**STATE OF NEW YORK
MASTER CONTRACT FOR GRANTS**

This State of New York Master Contract for Grants (Master Contract) is hereby made by and between the State of New York acting by and through the applicable State Agency (State) and the public or private entity (Contractor) identified on the face page hereof (Face Page).

WITNESSETH:

WHEREAS, the State has the authority to regulate and provide funding for the establishment and operation of program services, design or the execution and performance of construction projects, as applicable and desires to contract with skilled parties possessing the necessary resources to provide such services or work, as applicable; and

WHEREAS, the Contractor is ready, willing and able to provide such program services or the execution and performance of construction projects and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services or work, as applicable, required pursuant to the terms of the Master Contract;

NOW THEREFORE, in consideration of the promises, responsibilities, and covenants herein, the State and the Contractor agree as follows:

STANDARD TERMS AND CONDITIONS

I. GENERAL PROVISIONS

A. Executory Clause: In accordance with Section 41 of the State Finance Law, the State shall have no liability under the Master Contract to the Contractor, or to anyone else, beyond funds appropriated and available for the Master Contract.

B. Required Approvals: In accordance with Section 112 of the State Finance Law (or, if the Master Contract is with the State University of New York (SUNY) or City University of New York (CUNY), Section 355 or Section 6218 of the Education Law), if the Master Contract exceeds \$50,000 (or \$85,000 for contracts let by the Office of General Services, or the minimum thresholds agreed to by the Office of the State Comptroller (OSC) for certain SUNY and CUNY contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount including, but not limited to, changes in amount, consideration, scope or contract term identified on the Face Page (Contract Term), it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the New York Attorney General Contract Approval Unit (AG) and OSC. If, by the Master Contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by, and filed with, the AG and OSC.

Budget Changes: An amendment that would result in a transfer of funds among program activities or budget cost categories that does not affect the amount, consideration, scope or other terms of such contract may be subject to the approval of the AG and OSC where the amount of such modification is, as a portion of the total value of the contract, equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than

five million dollars; and, in addition, such amendment may be subject to prior approval by the applicable State Agency as detailed in Attachment D (Payment and Reporting Schedule).

C. Order of Precedence:

In the event of a conflict among (i) the terms of the Master Contract (including any and all attachments and amendments) or (ii) between the terms of the Master Contract and the original request for proposal, the program application or other attachment that was completed and executed by the Contractor in connection with the Master Contract, the order of precedence is as follows:

1. Standard Terms and Conditions
2. Modifications to the Face Page
3. Modifications to Attachment A-2¹, Attachment B, Attachment C and Attachment D
4. The Face Page
5. Attachment A-2², Attachment B, Attachment C and Attachment D
6. Modification to Attachment A-1
7. Attachment A-1
8. Other attachments, including, but not limited to, the request for proposal or program application

D. Funding: Funding for the term of the Master Contract shall not exceed the amount specified as “Contract Funding Amount” on the Face Page or as subsequently revised to reflect an approved renewal or cost amendment. Funding for the initial and subsequent periods of the Master Contract shall not exceed the applicable amounts specified in the applicable Attachment B form (Budget).

E. Contract Performance: The Contractor shall perform all services or work, as applicable, and comply with all provisions of the Master Contract to the satisfaction of the State. The Contractor shall provide services or work, as applicable, and meet the program objectives summarized in Attachment C (Work Plan) in accordance with the provisions of the Master Contract, relevant laws, rules and regulations, administrative, program and fiscal guidelines, and where applicable, operating certificate for facilities or licenses for an activity or program.

F. Modifications: To modify the Attachments or Face Page, the parties mutually agree to record, in writing, the terms of such modification and to revise or complete the Face Page and all the appropriate attachments in conjunction therewith. In addition, to the extent that such modification meets the criteria set forth in Section I.B herein, it shall be subject to the approval of the AG and

¹ To the extent that the modifications to Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the modifications to Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).

² To the extent that the terms of Attachment A-2 are required by Federal requirements and conflict with other provisions of the Master Contract, the Federal requirements of Attachment A-2 shall supersede all other provisions of this Master Contract. See Section I(V).
Contract Number: # DOH01-C33741GG-3450000

OSC before it shall become valid, effective and binding upon the State. Modifications that are not subject to the AG and OSC approval shall be processed in accordance with the guidelines stated in the Master Contract.

G. Governing Law: The Master Contract shall be governed by the laws of the State of New York except where the Federal Supremacy Clause requires otherwise.

H. Severability: Any provision of the Master Contract that is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof; provided, however, that the parties to the Master Contract shall attempt in good faith to reform the Master Contract in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

I. Interpretation: The headings in the Master Contract are inserted for convenience and reference only and do not modify or restrict any of the provisions herein. All personal pronouns used herein shall be considered to be gender neutral. The Master Contract has been made under the laws of the State of New York, and the venue for resolving any disputes hereunder shall be in a court of competent jurisdiction of the State of New York.

J. Notice:

1. All notices, except for notices of termination, shall be in writing and shall be transmitted either:
 - a) by certified or registered United States mail, return receipt requested;
 - b) by facsimile transmission;
 - c) by personal delivery;
 - d) by expedited delivery service; or
 - e) by e-mail.
2. Notices to the State shall be addressed to the Program Office designated in Attachment A-1 (Program Specific Terms and Conditions).
3. Notices to the Contractor shall be addressed to the Contractor's designee as designated in Attachment A-1 (Program Specific Terms and Conditions).
4. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or e-mail, upon receipt.
5. The parties may, from time to time, specify any new or different e-mail address, facsimile number or address in the United States as their address for purpose of receiving notice under the

Master Contract by giving fifteen (15) calendar days prior written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under the Master Contract. Additional individuals may be designated in writing by the parties for purposes of implementation, administration, billing and resolving issues and/or disputes.

K. Service of Process: In addition to the methods of service allowed by the State Civil Practice Law & Rules (CPLR), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. The Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.

L. Set-Off Rights: The State shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold, for the purposes of set-off, any moneys due to the Contractor under the Master Contract up to any amounts due and owing to the State with regard to the Master Contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of the Master Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State Agency, its representatives, or OSC.

M. Indemnification: The Contractor shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Contractor or its subcontractors pursuant to this Master Contract. The Contractor shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and cost of every nature arising out of the provision of services pursuant to the Master Contract.

N. Non-Assignment Clause: In accordance with Section 138 of the State Finance Law, the Master Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet, or otherwise disposed of without the State's previous written consent, and attempts to do so shall be considered to be null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract, let pursuant to Article XI of the State Finance Law, may be waived at the discretion of the State Agency and with the concurrence of OSC, where the original contract was subject to OSC's approval, where the assignment is due to a reorganization, merger, or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that the merged contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless the Master Contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

O. Legal Action: No litigation or regulatory action shall be brought against the State of New York, the State Agency, or against any county or other local government entity with funds provided under the Master Contract. The term "litigation" shall include commencing or threatening to commence a lawsuit, joining or threatening to join as a party to ongoing litigation, or requesting any relief from

any of the State of New York, the State Agency, or any county, or other local government entity. The term “regulatory action” shall include commencing or threatening to commence a regulatory proceeding, or requesting any regulatory relief from any of the State of New York, the State Agency, or any county, or other local government entity.

P. No Arbitration: Disputes involving the Master Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

Q. Secular Purpose: Services performed pursuant to the Master Contract are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

R. Partisan Political Activity and Lobbying: Funds provided pursuant to the Master Contract shall not be used for any partisan political activity, or for activities that attempt to influence legislation or election or defeat of any candidate for public office.

S. Reciprocity and Sanctions Provisions: The Contractor is hereby notified that if its principal place of business is located in a country, nation, province, state, or political subdivision that penalizes New York State vendors, and if the goods or services it offers shall be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that it be denied contracts which it would otherwise obtain.³

T. Reporting Fraud and Abuse: Contractor acknowledges that it has reviewed information on how to prevent, detect, and report fraud, waste and abuse of public funds, including information about the Federal False Claims Act, the New York State False Claims Act, and whistleblower protections.

U. Non-Collusive Bidding: By submission of this bid, the Contractor and each person signing on behalf of the Contractor 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 his or her knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. The Contractor further affirms that, at the time the Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive binding certification on the Contractor’s behalf.

V. Federally Funded Grants and Requirements Mandated by Federal Laws: All of the Specific Federal requirements that are applicable to the Master Contract are identified in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto. To the extent that the Master Contract is funded in whole or part with Federal funds or mandated by Federal laws, (i) the provisions of the Master Contract that conflict with Federal rules, Federal regulations, or Federal program specific requirements shall not apply and (ii) the Contractor agrees to comply with all applicable Federal rules, regulations and program specific requirements including, but not limited to, those provisions that are set forth in Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws) hereto.

³As of October 9, 2012, the list of discriminatory jurisdictions subject to this provision includes the states of Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming. Contact NYS Department of Economic Development for the most current list of jurisdictions subject to this provision.

II. TERM, TERMINATION AND SUSPENSION

A. Term: The term of the Master Contract shall be as specified on the Face Page, unless terminated sooner as provided herein.

B. Renewal:

1. General Renewal: The Master Contract may consist of successive periods on the same terms and conditions, as specified within the Master Contract (a "Simplified Renewal Contract"). Each additional or superseding period shall be on the forms specified by the State and shall be incorporated in the Master Contract.

2. Renewal Notice to Not-for-Profit Contractors:

a) Pursuant to State Finance Law §179-t, if the Master Contract is with a not-for-profit Contractor and provides for a renewal option, the State shall notify the Contractor of the State's intent to renew or not to renew the Master Contract no later than ninety (90) calendar days prior to the end of the term of the Master Contract, unless funding for the renewal is contingent upon enactment of an appropriation. If funding for the renewal is contingent upon enactment of an appropriation, the State shall notify the Contractor of the State's intent to renew or not to renew the Master Contract the later of: (1) ninety (90) calendar days prior to the end of the term of the Master Contract, and (2) thirty (30) calendar days after the necessary appropriation becomes law. Notwithstanding the foregoing, in the event that the State is unable to comply with the time frames set forth in this paragraph due to unusual circumstances beyond the control of the State ("Unusual Circumstances"), no payment of interest shall be due to the not-for-profit Contractor. For purposes of State Finance Law §179-t, "Unusual Circumstances" shall not mean the failure by the State to (i) plan for implementation of a program, (ii) assign sufficient staff resources to implement a program, (iii) establish a schedule for the implementation of a program or (iv) anticipate any other reasonably foreseeable circumstance.

b) Notification to the not-for-profit Contractor of the State's intent to not renew the Master Contract must be in writing in the form of a letter, with the reason(s) for the non-renewal included. If the State does not provide notice to the not-for-profit Contractor of its intent not to renew the Master Contract as required in this Section and State Finance Law §179-t, the Master Contract shall be deemed continued until the date the State provides the necessary notice to the Contractor, in accordance with State Finance Law §179-t. Expenses incurred by the not-for-profit Contractor during such extension shall be reimbursable under the terms of the Master Contract.

C. Termination:

1. Grounds:

- a) Mutual Consent: The Master Contract may be terminated at any time upon mutual written consent of the State and the Contractor.
- b) Cause: The State may terminate the Master Contract immediately, upon written notice of termination to the Contractor, if the Contractor fails to comply with any of the terms and conditions of the Master Contract and/or with any laws, rules, regulations, policies, or procedures that are applicable to the Master Contract.
- c) Non-Responsibility: In accordance with the provisions of Sections IV(N)(6) and (7) herein, the State may make a final determination that the Contractor is non-responsible (Determination of Non-Responsibility). In such event, the State may terminate the Master Contract at the Contractor's expense, complete the contractual requirements in any manner the State deems advisable and pursue available legal or equitable remedies for breach.
- d) Convenience: The State may terminate the Master Contract in its sole discretion upon thirty (30) calendar days prior written notice.
- e) Lack of Funds: If for any reason the State or the Federal government terminates or reduces its appropriation to the applicable State Agency entering into the Master Contract or fails to pay the full amount of the allocation for the operation of one or more programs funded under this Master Contract, the Master Contract may be terminated or reduced at the State Agency's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the State Agency for payment of such costs. Upon termination or reduction of the Master Contract, all remaining funds paid to the Contractor that are not subject to allowable costs already incurred by the Contractor shall be returned to the State Agency. In any event, no liability shall be incurred by the State (including the State Agency) beyond monies available for the purposes of the Master Contract. The Contractor acknowledges that any funds due to the State Agency or the State of New York because of disallowed expenditures after audit shall be the Contractor's responsibility.
- f) Force Majeure: The State may terminate or suspend its performance under the Master Contract immediately upon the occurrence of a "force majeure." For purposes of the Master Contract, "Force majeure" shall include, but not be limited to, natural disasters, war, rebellion, insurrection, riot, strikes, lockout and any unforeseen circumstances and acts beyond the control of the State which render the performance of its obligations impossible.

2. Notice of Termination:

- a) Service of notice: Written notice of termination shall be sent by:
 - (i) personal messenger service; or
 - (ii) certified mail, return receipt requested and first class mail.

b) Effective date of termination: The effective date of the termination shall be the later of (i) the date indicated in the notice and (ii) the date the notice is received by the Contractor, and shall be established as follows:

(i) if the notice is delivered by hand, the date of receipt shall be established by the receipt given to the Contractor or by affidavit of the individual making such hand delivery attesting to the date of delivery; or

(ii) if the notice is delivered by registered or certified mail, by the receipt returned from the United States Postal Service, or if no receipt is returned, five (5) business days from the date of mailing of the first class letter, postage prepaid, in a depository under the care and control of the United States Postal Service.

3. Effect of Notice and Termination on State's Payment Obligations:

a) Upon receipt of notice of termination, the Contractor agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the State.

b) The State shall be responsible for payment on claims for services or work provided and costs incurred pursuant to the terms of the Master Contract. In no event shall the State be liable for expenses and obligations arising from the requirements of the Master Contract after its termination date.

4. Effect of Termination Based on Misuse or Conversion of State or Federal Property:

Where the Master Contract is terminated for cause based on Contractor's failure to use some or all of the real property or equipment purchased pursuant to the Master Contract for the purposes set forth herein, the State may, at its option, require:

a) the repayment to the State of any monies previously paid to the Contractor; or

b) the return of any real property or equipment purchased under the terms of the Master Contract; or

c) an appropriate combination of clauses (a) and (b) of Section II(C)(4) herein.

Nothing herein shall be intended to limit the State's ability to pursue such other legal or equitable remedies as may be available.

D. Suspension: The State may, in its discretion, order the Contractor to suspend performance for a reasonable period of time. In the event of such suspension, the Contractor shall be given a formal written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor shall comply with the particulars of the notice. The State shall have no obligation to reimburse Contractor's expenses during such suspension period. Activities may resume at such time as the State issues a formal written notice authorizing a resumption of performance under the Master Contract.

III. PAYMENT AND REPORTING

A. Terms and Conditions:

1. In full consideration of contract services to be performed, the State Agency agrees to pay and the Contractor agrees to accept a sum not to exceed the amount noted on the Face Page.
2. The State has no obligation to make payment until all required approvals, including the approval of the AG and OSC, if required, have been obtained. Contractor obligations or expenditures that precede the start date of the Master Contract shall not be reimbursed.
3. Contractor must provide complete and accurate billing invoices to the State in order to receive payment. Provided, however, the State may, at its discretion, automatically generate a voucher in accordance with an approved contract payment schedule. Billing invoices submitted to the State must contain all information and supporting documentation required by Attachment D (Payment and Reporting Schedule) and Section III(C) herein. The State may require the Contractor to submit billing invoices electronically.
4. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the head of the State Agency, in the sole discretion of the head of such State Agency, due to extenuating circumstances. Such electronic payment shall be made in accordance with OSC's procedures and practices to authorize electronic payments.
5. If travel expenses are an approved expenditure under the Master Contract, travel expenses shall be reimbursed at the lesser of the rates set forth in the written standard travel policy of the Contractor, the OSC guidelines, or United States General Services Administration rates. No out-of-state travel costs shall be permitted unless specifically detailed and pre-approved by the State.
6. Timeliness of advance payments or other claims for reimbursement, and any interest to be paid to Contractor for late payment, shall be governed by Article 11-A of the State Finance Law to the extent required by law.
7. Article 11-B of the State Finance Law sets forth certain time frames for the Full Execution of contracts or renewal contracts with not-for-profit organizations and the implementation of any program plan associated with such contract. For purposes of this section, "Full Execution" shall mean that the contract has been signed by all parties thereto and has obtained the approval of the AG and OSC. Any interest to be paid on a missed payment to the Contractor based on a delay in the Full Execution of the Master Contract shall be governed by Article 11-B of the State Finance Law.

B. Advance Payment and Recoupment:

1. Advance payments, which the State in its sole discretion may make to not-for-profit grant recipients, shall be made and recouped in accordance with State Finance Law Section 179(u), this Section and the provisions of Attachment D (Payment and Reporting Schedule).
2. Initial advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the first day of the Contract Term or, if renewed, in the period identified on the Face Page. Subsequent advance payments made by the State to not-for-profit grant recipients shall be due no later than thirty (30) calendar days, excluding legal holidays, after the dates specified in Attachment D (Payment and Reporting Schedule).
3. For subsequent contract years in multi-year contracts, Contractor will be notified of the scheduled advance payments for the upcoming contract year no later than 90 days prior to the commencement of the contract year. For simplified renewals, the payment schedule (Attachment D) will be modified as part of the renewal process.
4. Recoupment of any advance payment(s) shall be recovered by crediting the percentage of subsequent claims listed in Attachment D (Payment and Reporting Schedule) and Section III(C) herein and such claims shall be reduced until the advance is fully recovered within the Contract Term. Any unexpended advance balance at the end of the Contract Term shall be refunded by the Contractor to the State.
5. If for any reason the amount of any claim is not sufficient to cover the proportionate advance amount to be recovered, then subsequent claims may be reduced until the advance is fully recovered.

C. Claims for Reimbursement:

1. The Contractor shall submit claims for the reimbursement of expenses incurred on behalf of the State under the Master Contract in accordance with this Section and the applicable claiming schedule in Attachment D (Payment and Reporting Schedule).

Vouchers submitted for payment shall be deemed to be a certification that the payments requested are for project expenditures made in accordance with the items as contained in the applicable Attachment B form (Budget) and during the Contract Term. When submitting a voucher, such voucher shall also be deemed to certify that: (i) the payments requested do not duplicate reimbursement from other sources of funding; and (ii) the funds provided herein do not replace funds that, in the absence of this grant, would have been made available by the Contractor for this program. Requirement (ii) does not apply to grants funded pursuant to a Community Projects Fund appropriation.

2. Consistent with the selected reimbursement claiming schedule in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the appropriate following provisions:
 - a) Quarterly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency quarterly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

b) Monthly Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency monthly voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

c) Biannual Reimbursement: The Contractor shall be entitled to receive payments for work, projects, and services rendered as detailed and described in Attachment C (Work Plan).

The Contractor shall submit to the State Agency biannually voucher claims and supporting documentation. The Contractor shall submit vouchers to the State Agency in accordance with the procedures set forth in Section III(A)(3) herein.

d) Milestone/Performance Reimbursement:⁴ Requests for payment based upon an event or milestone may be either severable or cumulative. A severable event/milestone is independent of accomplishment of any other event. If the event is cumulative, the successful completion of an event or milestone is dependent on the previous completion of another event.

Milestone payments shall be made to the Contractor when requested in a form approved by the State, and at frequencies and in amounts stated in Attachment D (Payment and Reporting Schedule). The State Agency shall make milestone payments subject to the Contractor's satisfactory performance.

e) Fee for Service Reimbursement:⁵ Payment shall be limited to only those fees specifically agreed upon in the Master Contract and shall be payable no more frequently than monthly upon submission of a voucher by the contractor.

f) Rate Based Reimbursement:⁶ Payment shall be limited to rate(s) established in the Master Contract. Payment may be requested no more frequently than monthly.

g) Scheduled Reimbursement:⁷ The State Agency shall generate vouchers at the frequencies and amounts as set forth in Attachment D (Payment and Reporting Schedule), and service reports shall be used to determine funding levels appropriate to the next annual contract period.

⁴ A milestone/ performance payment schedule identifies mutually agreed-to payment amounts based on meeting contract events or milestones. Events or milestones must represent integral and meaningful aspects of contract performance and should signify true progress in completing the Master Contract effort.

⁵ Fee for Service is a rate established by the Contractor for a service or services rendered.

⁶ Rate based agreements are those agreements in which payment is premised upon a specific established rate per unit.

⁷ Scheduled Reimbursement agreements provide for payments that occur at defined and regular intervals that provide for a specified dollar amount to be paid to the Contractor at the beginning of each payment period (i.e. quarterly, monthly or bi-annually). While these payments are related to the particular services and outcomes defined in the Master Contract, they are not dependent upon particular services or expenses in any one payment period and provide the Contractor with a defined and regular payment over the life of the contract.

h) Interim Reimbursement: The State Agency shall generate vouchers on an interim basis and at the amounts requested by the Contractor as set forth in Attachment D (Payment and Reporting Schedule).

i) Fifth Quarter Payments:⁸ Fifth quarter payment shall be paid to the Contractor at the conclusion of the final scheduled payment period of the preceding contract period. The State Agency shall use a written directive for fifth quarter financing. The State Agency shall generate a voucher in the fourth quarter of the current contract year to pay the scheduled payment for the next contract year.

3. The Contractor shall also submit supporting fiscal documentation for the expenses claimed.
4. The State reserves the right to withhold up to fifteen percent (15%) of the total amount of the Master Contract as security for the faithful completion of services or work, as applicable, under the Master Contract. This amount may be withheld in whole or in part from any single payment or combination of payments otherwise due under the Master Contract. In the event that such withheld funds are insufficient to satisfy Contractor's obligations to the State, the State may pursue all available remedies, including the right of setoff and recoupment.
5. The State shall not be liable for payments on the Master Contract if it is made pursuant to a Community Projects Fund appropriation if insufficient monies are available pursuant to Section 99-d of the State Finance Law.
6. All vouchers submitted by the Contractor pursuant to the Master Contract shall be submitted to the State Agency no later than thirty (30) calendar days after the end date of the period for which reimbursement is claimed. In no event shall the amount received by the Contractor exceed the budget amount approved by the State Agency, and, if actual expenditures by the Contractor are less than such sum, the amount payable by the State Agency to the Contractor shall not exceed the amount of actual expenditures.
7. All obligations must be incurred prior to the end date of the contract. Notwithstanding the provisions of Section III(C)(6) above, with respect to the final period for which reimbursement is claimed, so long as the obligations were incurred prior to the end date of the contract, the Contractor shall have up to ninety (90) calendar days after the contract end date to make expenditures; provided, however, that if the Master Contract is funded, in whole or in part, with Federal funds, the Contractor shall have up to sixty (60) calendar days after the contract end date to make expenditures.

D. Identifying Information and Privacy Notification:

1. Every voucher or New York State Claim for Payment submitted to a State Agency by the Contractor, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property, must include the Contractor's Vendor Identification Number assigned by the Statewide Financial System, and any or all of the following identification numbers: (i) the Contractor's Federal employer identification number,

⁸ Fifth Quarter Payments occurs where there are scheduled payments and where there is an expectation that services will be continued through renewals or subsequent contracts. Fifth Quarter Payments allow for the continuation of scheduled payments to a Contractor for the first payment period quarter of an anticipated renewal or new contract.

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(ii) the Contractor's Federal social security number, and/or (iii) DUNS number. Failure to include such identification number or numbers may delay payment by the State to the Contractor. Where the Contractor does not have such number or numbers, the Contractor, on its voucher or Claim for Payment, must provide the reason or reasons for why the Contractor does not have such number or numbers.

2. The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principle purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. The personal information is requested by the purchasing unit of the State Agency contracting to purchase the goods or services or lease the real or personal property covered by the Master Contract. This information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York, 12236.

E. Refunds:

1. In the event that the Contractor must make a refund to the State for Master Contract-related activities, including repayment of an advance or an audit disallowance, payment must be made payable as set forth in Attachment A-1 (Program Specific Terms and Conditions). The Contractor must reference the contract number with its payment and include a brief explanation of why the refund is being made. Refund payments must be submitted to the Designated Refund Office at the address specified in Attachment A-1 (Program Specific Terms and Conditions).

2. If at the end or termination of the Master Contract, there remains any unexpended balance of the monies advanced under the Master Contract in the possession of the Contractor, the Contractor shall make payment within forty-five (45) calendar days of the end or termination of the Master Contract. In the event that the Contractor fails to refund such balance the State may pursue all available remedies.

F. Outstanding Amounts Owed to the State: Prior period overpayments (including, but not limited to, contract advances in excess of actual expenditures) and/or audit recoveries associated with the Contractor may be recouped against future payments made under this Master Contract to Contractor. The recoupment generally begins with the first payment made to the Contractor following identification of the overpayment and/or audit recovery amount. In the event that there are no payments to apply recoveries against, the Contractor shall make payment as provided in Section III(E) (Refunds) herein.

G. Program and Fiscal Reporting Requirements:

1. The Contractor shall submit required periodic reports in accordance with the applicable schedule provided in Attachment D (Payment and Reporting Schedule). All required reports or other work products developed pursuant to the Master Contract must be completed as provided by the agreed upon work schedule in a manner satisfactory and acceptable to the State Agency in order for the Contractor to be eligible for payment.

2. Consistent with the selected reporting options in Attachment D (Payment and Reporting Schedule), the Contractor shall comply with the following applicable provisions:

a) If the Expenditure Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with one or more of the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

- (i) *Narrative/Qualitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a report, in narrative form, summarizing the services rendered during the quarter. This report shall detail how the Contractor has progressed toward attaining the qualitative goals enumerated in Attachment C (Work Plan). This report should address all goals and objectives of the project and include a discussion of problems encountered and steps taken to solve them.
- (ii) *Statistical/Quantitative Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed report analyzing the quantitative aspects of the program plan, as appropriate (e.g., number of meals served, clients transported, patient/client encounters, procedures performed, training sessions conducted, etc.)
- (iii) *Expenditure Report*: The Contractor shall submit, on a quarterly basis, not later than the time period listed in Attachment D (Payment and Reporting Schedule), a detailed expenditure report, by object of expense. This report shall accompany the voucher submitted for such period.
- (iv) *Final Report*: The Contractor shall submit a final report as required by the Master Contract, not later than the time period listed in Attachment D (Payment and Reporting Schedule) which reports on all aspects of the program and detailing how the use of funds were utilized in achieving the goals set forth in Attachment C (Work Plan).
- (v) *Consolidated Fiscal Report (CFR)*: The Contractor shall submit a CFR, which includes a year-end cost report and final claim not later than the time period listed in Attachment D (Payment and Reporting Schedule).

b) If the Performance-Based Reports option is indicated in Attachment D (Payment and Reporting Schedule), the Contractor shall provide the State Agency with the following reports as required by the following provisions and Attachment D (Payment and Reporting Schedule) as applicable:

- (i) *Progress Report*: The Contractor shall provide the State Agency with a written progress report using the forms and formats as provided by the State Agency, summarizing the work performed during the period. These reports shall detail the Contractor's progress toward attaining the specific goals enumerated in Attachment C (Work Plan). Progress reports shall be submitted in a format prescribed in the Master Contract.

(ii) *Final Progress Report*: Final scheduled payment is due during the time period set forth in Attachment D (Payment and Reporting Schedule). The deadline for submission of the final report shall be the date set forth in Attachment D (Payment and Reporting Schedule). The State Agency shall complete its audit and notify the Contractor of the results no later than the date set forth in Attachment D (Payment and Reporting Schedule). Payment shall be adjusted by the State Agency to reflect only those services/expenditures that were made in accordance with the Master Contract. The Contractor shall submit a detailed comprehensive final progress report not later than the date set forth in Attachment D (Payment and Reporting Schedule), summarizing the work performed during the entire Contract Term (i.e., a cumulative report), in the forms and formats required.

3. In addition to the periodic reports stated above, the Contractor may be required (a) to submit such other reports as are required in Table 1 of Attachment D (Payment and Reporting Schedule), and (b) prior to receipt of final payment under the Master Contract, to submit one or more final reports in accordance with the form, content, and schedule stated in Table 1 of Attachment D (Payment and Reporting Schedule).

H. Notification of Significant Occurrences:

1. If any specific event or conjunction of circumstances threatens the successful completion of this project, in whole or in part, including where relevant, timely completion of milestones or other program requirements, the Contractor agrees to submit to the State Agency within three (3) calendar days of becoming aware of the occurrence or of such problem, a written description thereof together with a recommended solution thereto.

2. The Contractor shall immediately notify in writing the program manager assigned to the Master Contract of any unusual incident, occurrence, or event that involves the staff, volunteers, directors or officers of the Contractor, any subcontractor or program participant funded through the Master Contract, including but not limited to the following: death or serious injury; an arrest or possible criminal activity that could impact the successful completion of this project; any destruction of property; significant damage to the physical plant of the Contractor; or other matters of a similarly serious nature.

IV. ADDITIONAL CONTRACTOR OBLIGATIONS, REPRESENTATIONS AND WARRANTIES

A. Contractor as an Independent Contractor/Employees:

1. The State and the Contractor agree that the Contractor is an independent contractor, and not an employee of the State and may neither hold itself out nor claim to be an officer, employee, or subdivision of the State nor make any claim, demand, or application to or for any right based upon any different status. Notwithstanding the foregoing, the State and the Contractor agree that if the Contractor is a New York State municipality, the Contractor shall be permitted to hold itself out, and claim, to be a subdivision of the State.

The Contractor shall be solely responsible for the recruitment, hiring, provision of employment benefits, payment of salaries and management of its project personnel. These functions shall be carried out in accordance with the provisions of the Master Contract, and all applicable Federal and State laws and regulations.

2. The Contractor warrants that it, its staff, and any and all subcontractors have all the necessary licenses, approvals, and certifications currently required by the laws of any applicable local, state, or Federal government to perform the services or work, as applicable, pursuant to the Master Contract and/or any subcontract entered into under the Master Contract. The Contractor further agrees that such required licenses, approvals, and certificates shall be kept in full force and effect during the term of the Master Contract, or any extension thereof, and to secure any new licenses, approvals, or certificates within the required time frames and/or to require its staff and subcontractors to obtain the requisite licenses, approvals, or certificates. In the event the Contractor, its staff, and/or subcontractors are notified of a denial or revocation of any license, approval, or certification to perform the services or work, as applicable, under the Master Contract, Contractor shall immediately notify the State.

B. Subcontractors:

1. If the Contractor enters into subcontracts for the performance of work pursuant to the Master Contract, the Contractor shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the State under the Master Contract. No contractual relationship shall be deemed to exist between the subcontractor and the State.

2. If requested by the State, the Contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of \$100,000 for the performance of the obligations contained herein until it has received the prior written permission of the State, which shall have the right to review and approve each and every subcontract in excess of \$100,000 prior to giving written permission to the Contractor to enter into the subcontract. All agreements between the Contractor and subcontractors shall be by written contract, signed by individuals authorized to bind the parties. All such subcontracts shall contain provisions for specifying (1) that the work performed by the subcontractor must be in accordance with the terms of the Master Contract, (2) that nothing contained in the subcontract shall impair the rights of the State under the Master Contract, and (3) that nothing contained in the subcontract, nor under the Master Contract, shall be deemed to create any contractual relationship between the subcontractor and the State. In addition, subcontracts shall contain any other provisions which are required to be included in subcontracts pursuant to the terms herein.

3. If requested by the State, prior to executing a subcontract, the Contractor agrees to require the subcontractor to provide to the State the information the State needs to determine whether a proposed subcontractor is a responsible vendor.

4. If requested by the State, when a subcontract equals or exceeds \$100,000, the subcontractor shall submit a Vendor Responsibility Questionnaire (Questionnaire).

5. If requested by the State, upon the execution of a subcontract, the Contractor shall provide detailed subcontract information (a copy of subcontract will suffice) to the State within fifteen (15) calendar days after execution. The State may request from the Contractor copies of subcontracts between a subcontractor and its subcontractor.

6. The Contractor shall require any and all subcontractors to submit to the Contractor all financial claims for Services or work to the State agency, as applicable, rendered and required supporting documentation and reports as necessary to permit Contractor to meet claim deadlines and documentation requirements as established in Attachment D (Payment and Reporting

Schedule) and Section III. Subcontractors shall be paid by the Contractor on a timely basis after submitting the required reports and vouchers for reimbursement of services or work, as applicable. Subcontractors shall be informed by the Contractor of the possibility of non-payment or rejection by the Contractor of claims that do not contain the required information, and/or are not received by the Contractor by said due date.

C. Use Of Material, Equipment, Or Personnel:

1. The Contractor shall not use materials, equipment, or personnel paid for under the Master Contract for any activity other than those provided for under the Master Contract, except with the State's prior written permission.
2. Any interest accrued on funds paid to the Contractor by the State shall be deemed to be the property of the State and shall either be credited to the State at the close-out of the Master Contract or, upon the written permission of the State, shall be expended on additional services or work, as applicable, provided for under the Master Contract.

D. Property:

1. Property is real property, equipment, or tangible personal property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit.
 - a) If an item of Property required by the Contractor is available as surplus to the State, the State at its sole discretion, may arrange to provide such Property to the Contractor in lieu of the purchase of such Property.
 - b) If the State consents in writing, the Contractor may retain possession of Property owned by the State, as provided herein, after the termination of the Master Contract to use for similar purposes. Otherwise, the Contractor shall return such Property to the State at the Contractor's cost and expense upon the expiration of the Master Contract.
 - c) In addition, the Contractor agrees to permit the State to inspect the Property and to monitor its use at reasonable intervals during the Contractor's regular business hours.
 - d) The Contractor shall be responsible for maintaining and repairing Property purchased or procured under the Master Contract at its own cost and expense. The Contractor shall procure and maintain insurance at its own cost and expense in an amount satisfactory to the State Agency, naming the State Agency as an additional insured, covering the loss, theft or destruction of such equipment.
 - e) A rental charge to the Master Contract for a piece of Property owned by the Contractor shall not be allowed.
 - f) The State has the right to review and approve in writing any new contract for the purchase of or lease for rental of Property (Purchase/Lease Contract) operated in connection with the provision of the services or work, as applicable, as specified in the Master Contract, if applicable, and any modifications, amendments, or extensions of an existing lease or purchase prior to its execution. If, in its discretion, the State disapproves of any

Purchase/Lease Contract, then the State shall not be obligated to make any payments for such Property.

g) No member, officer, director or employee of the Contractor shall retain or acquire any interest, direct or indirect, in any Property, paid for with funds under the Master Contract, nor retain any interest, direct or indirect, in such, without full and complete prior disclosure of such interest and the date of acquisition thereof, in writing to the Contractor and the State.

2. For non-Federally-funded contracts, unless otherwise provided herein, the State shall have the following rights to Property purchased with funds provided under the Master Contract:

a) For cost-reimbursable contracts, all right, title and interest in such Property shall belong to the State.

b) For performance-based contracts, all right, title and interest in such Property shall belong to the Contractor.

3. For Federally funded contracts, title to Property whose requisition cost is borne in whole or in part by monies provided under the Master Contract shall be governed by the terms and conditions of Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

4. Upon written direction by the State, the Contractor shall maintain an inventory of all Property that is owned by the State as provided herein.

5. The Contractor shall execute any documents which the State may reasonably require to effectuate the provisions of this section.

E. Records and Audits:

1. General:

a) The Contractor shall establish and maintain, in paper or electronic format, complete and accurate books, records, documents, receipts, accounts, and other evidence directly pertinent to its performance under the Master Contract (collectively, Records).

b) The Contractor agrees to produce and retain for the balance of the term of the Master Contract, and for a period of six years from the later of the date of (i) the Master Contract and (ii) the most recent renewal of the Master Contract, any and all Records necessary to substantiate upon audit, the proper deposit and expenditure of funds received under the Master Contract. Such Records may include, but not be limited to, original books of entry (e.g., cash disbursements and cash receipts journal), and the following specific records (as applicable) to substantiate the types of expenditures noted:

(i) personal service expenditures: cancelled checks and the related bank statements, time and attendance records, payroll journals, cash and check disbursement records including copies of money orders and the like, vouchers and invoices, records of contract labor, any and all records listing payroll and the money value of non-cash advantages provided to employees, time cards, work schedules and logs, employee personal history folders,

detailed and general ledgers, sales records, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(ii) payroll taxes and fringe benefits: cancelled checks, copies of related bank statements, cash and check disbursement records including copies of money orders and the like, invoices for fringe benefit expenses, miscellaneous reports and returns (tax and otherwise), and cost allocation plans, if applicable.

(iii) non-personal services expenditures: original invoices/receipts, cancelled checks and related bank statements, consultant agreements, leases, and cost allocation plans, if applicable.

(iv) receipt and deposit of advance and reimbursements: itemized bank stamped deposit slips, and a copy of the related bank statements.

c) The OSC, AG and any other person or entity authorized to conduct an examination, as well as the State Agency or State Agencies involved in the Master Contract that provided funding, shall have access to the Records during the hours of 9:00 a.m. until 5:00 p.m., Monday through Friday (excluding State recognized holidays), at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

d) The State shall protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records, as exempt under Section 87 of the Public Officers Law, is reasonable.

e) Nothing contained herein shall diminish, or in any way adversely affect, the State's rights in connection with its audit and investigatory authority or the State's rights in connection with discovery in any pending or future litigation.

2. Cost Allocation:

a) For non-performance based contracts, the proper allocation of the Contractor's costs must be made according to a cost allocation plan that meets the requirements of OMB Circulars A-87, A-122, and/or A-21. Methods used to determine and assign costs shall conform to generally accepted accounting practices and shall be consistent with the method(s) used by the Contractor to determine costs for other operations or programs. Such accounting standards and practices shall be subject to approval of the State.

b) For performance based milestone contracts, or for the portion of the contract amount paid on a performance basis, the Contractor shall maintain documentation demonstrating that milestones were attained.

3. Federal Funds: For records and audit provisions governing Federal funds, please see Attachment A-2 (Federally Funded Grants and Requirements Mandated by Federal Laws).

F. Confidentiality: The Contractor agrees that it shall use and maintain personally identifiable information relating to individuals who may receive services, and their families pursuant to the Master Contract, or any other information, data or records marked as, or reasonably deemed, confidential by the State (Confidential Information) only for the limited purposes of the Master Contract and in conformity with applicable provisions of State and Federal law. The Contractor (i) has an affirmative obligation to safeguard any such Confidential Information from unnecessary or unauthorized disclosure and (ii) must comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

G. Publicity:

1. Publicity includes, but is not limited to: news conferences; news releases; public announcements; advertising; brochures; reports; discussions or presentations at conferences or meetings; and/or the inclusion of State materials, the State's name or other such references to the State in any document or forum. Publicity regarding this project may not be released without prior written approval from the State.

2. Any publications, presentations or announcements of conferences, meetings or trainings which are funded in whole or in part through any activity supported under the Master Contract may not be published, presented or announced without prior approval of the State. Any such publication, presentation or announcement shall:

a) Acknowledge the support of the State of New York and, if funded with Federal funds, the applicable Federal funding agency; and

b) State that the opinions, results, findings and/or interpretations of data contained therein are the responsibility of the Contractor and do not necessarily represent the opinions, interpretations or policy of the State or if funded with Federal funds, the applicable Federal funding agency.

3. Notwithstanding the above, (i) if the Contractor is an educational research institution, the Contractor may, for scholarly or academic purposes, use, present, discuss, report or publish any material, data or analyses, other than Confidential Information, that derives from activity under the Master Contract and the Contractor agrees to use best efforts to provide copies of any manuscripts arising from Contractor's performance under this Master Contract, or if requested by the State, the Contractor shall provide the State with a thirty (30) day period in which to review each manuscript for compliance with Confidential Information requirements; or (ii) if the Contractor is not an educational research institution, the Contractor may submit for publication, scholarly or academic publications that derive from activity under the Master Contract (but are not deliverable under the Master Contract), provided that the Contractor first submits such manuscripts to the State forty-five (45) calendar days prior to submission for consideration by a publisher in order for the State to review the manuscript for compliance with confidentiality requirements and restrictions and to make such other comments as the State deems appropriate. All derivative publications shall follow the same acknowledgments and disclaimer as described in Section IV(G)(2) (Publicity) hereof.

H. Web-Based Applications-Accessibility: Any web-based intranet and Internet information and applications development, or programming delivered pursuant to the Master Contract or procurement shall comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility

Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that State Agency web-based intranet and Internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing shall be conducted by the State Agency and the results of such testing must be satisfactory to the State Agency before web content shall be considered a qualified deliverable under the Master Contract or procurement.

I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Master Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Master Contract. The Contractor shall be subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

J. Equal Opportunities for Minorities and Women; Minority and Women Owned Business Enterprises: In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if the Master Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting State 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 State Agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting State 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 Contractor certifies and affirms that (i) it is subject to Article 15-A of the Executive Law which includes, but is not limited to, those provisions concerning the maximizing of opportunities for the participation of minority and women-owned business enterprises and (ii) the following provisions shall apply and it is Contractor's equal employment opportunity policy that:

1. The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status;

2. The Contractor 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;
3. The Contractor shall 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, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
4. At the request of the State, 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 shall not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative shall affirmatively cooperate in the implementation of the Contractor's obligations herein; and
5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor shall include the provisions of subclauses 1 – 5 of this Section (IV)(J), in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (Work) except where the Work is for the beneficial use of the Contractor. Section 312 of the Executive Law does not apply to: (i) work, goods or services unrelated to the Master Contract; or (ii) employment outside New York State. The State shall consider compliance by the Contractor or a subcontractor with the requirements of any Federal law concerning equal employment opportunity which effectuates the purpose of this section. The State 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 State shall waive the applicability of Section 312 of the Executive Law to the extent of such duplication or conflict. The Contractor shall 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.

K. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises, as bidders, subcontractors and suppliers on its procurement contracts.

1. If the total dollar amount of the Master Contract is greater than \$1 million, the Omnibus Procurement Act of 1992 requires that by signing the Master Contract, the Contractor certifies the following:
 - a) The Contractor has made reasonable efforts to encourage the participation of State business enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

c) The Contractor agrees to make reasonable efforts to provide notification to State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of the Master Contract and agrees to cooperate with the State in these efforts.

L. Workers' Compensation Benefits:

1. In accordance with Section 142 of the State Finance Law, the Master Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of the Master Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

2. If a Contractor believes they are exempt from the Workers Compensation insurance requirement they must apply for an exemption.

M. Unemployment Insurance Compliance: The Contractor shall remain current in both its quarterly reporting and payment of contributions or payments in lieu of contributions, as applicable, to the State Unemployment Insurance system as a condition of maintaining this grant.

The Contractor hereby authorizes the State Department of Labor to disclose to the State Agency staff only such information as is necessary to determine the Contractor's compliance with the State Unemployment Insurance Law. This includes, but is not limited to, the following:

1. any records of unemployment insurance (UI) contributions, interest, and/or penalty payment arrears or reporting delinquency;
2. any debts owed for UI contributions, interest, and/or penalties;
3. the history and results of any audit or investigation; and
4. copies of wage reporting information.

Such disclosures are protected under Section 537 of the State Labor Law, which makes it a misdemeanor for the recipient of such information to use or disclose the information for any purpose other than the performing due diligence as a part of the approval process for the Master Contract.

N. Vendor Responsibility:

1. If a Contractor is required to complete a Questionnaire, the Contractor covenants and represents that it has, to the best of its knowledge, truthfully, accurately and thoroughly completed such Questionnaire. Although electronic filing is preferred, the Contractor may

obtain a paper form from the OSC prior to execution of the Master Contract. The Contractor further covenants and represents that as of the date of execution of the Master Contract, there are no material events, omissions, changes or corrections to such document requiring an amendment to the Questionnaire.

2. The Contractor shall provide to the State updates to the Questionnaire if any material event(s) occurs requiring an amendment or as new information material to such Questionnaire becomes available.

3. The Contractor shall, in addition, promptly report to the State the initiation of any investigation or audit by a governmental entity with enforcement authority with respect to any alleged violation of Federal or state law by the Contractor, its employees, its officers and/or directors in connection with matters involving, relating to or arising out of the Contractor's business. Such report shall be made within five (5) business days following the Contractor becoming aware of such event, investigation, or audit. Such report may be considered by the State in making a Determination of Vendor Non-Responsibility pursuant to this section.

4. The State reserves the right, in its sole discretion, at any time during the term of the Master Contract:

a) to require updates or clarifications to the Questionnaire upon written request;

b) to inquire about information included in or required information omitted from the Questionnaire;

c) to require the Contractor to provide such information to the State within a reasonable timeframe; and

d) to require as a condition precedent to entering into the Master Contract that the Contractor agree to such additional conditions as shall be necessary to satisfy the State that the Contractor is, and shall remain, a responsible vendor; and

e) to require the Contractor to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity. By signing the Master Contract, the Contractor agrees to comply with any such additional conditions that have been made a part of the Master Contract.

5. The State, in its sole discretion, reserves the right to suspend any or all activities under the Master Contract, at any time, when it discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor shall be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the State issues a written notice authorizing a resumption of performance under the Master Contract.

6. The State, in its sole discretion, reserves the right to make a final Determination of Non-Responsibility at any time during the term of the Master Contract based on:

- a) any information provided in the Questionnaire and/or in any updates, clarifications or amendments thereof; or
- b) the State's discovery of any material information which pertains to the Contractor's responsibility.

7. Prior to making a final Determination of Non-Responsibility, the State shall provide written notice to the Contractor that it has made a preliminary determination of non-responsibility. The State shall detail the reason(s) for the preliminary determination, and shall provide the Contractor with an opportunity to be heard.

O. Charities Registration: If applicable, the Contractor agrees to (i) obtain not-for-profit status, a Federal identification number, and a charitable registration number (or a declaration of exemption) and to furnish the State Agency with this information as soon as it is available, (ii) be in compliance with the OAG charities registration requirements at the time of the awarding of this Master Contract by the State and (iii) remain in compliance with the OAG charities registration requirements throughout the term of the Master Contract.

P. Consultant Disclosure Law:⁹ If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services, then in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

Q. Wage and Hours Provisions: If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

⁹ Not applicable to not-for-profit entities.

**ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES**

Part A. Agency Specific Clauses

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

A. International Boycott Prohibition: In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

B. Prohibition on Purchase of Tropical Hardwoods:

1. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

2. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

C. MacBride Fair Employment Principles: In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that

the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

D. Omnibus Procurement Act of 1992: It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development

633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<http://esd.ny.gov/MWBE/directorySearch.html>

E. Procurement Lobbying: To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

F. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates, and Subcontractors: To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the

Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

G. The CONTRACTOR certifies that all revenue earned during the budget period as a result of services and related activities performed pursuant to this contract shall be used either to expand those program services funded by this AGREEMENT or to offset expenditures submitted to the STATE for reimbursement.

H. Administrative Rules and Audits:

1. If this contract is funded in whole or in part from federal funds, the CONTRACTOR shall comply with the federal grant requirements regarding administration and allowable costs:

a) For local and Indian tribal governments, non-profit organizations; and educational institutions, use the administrative requirements and cost principles (Subparts A through E) in Office of Management and Budget (OMB), Title 2 Code of Federal Regulations (CFR), Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

b) Exceptions: Pursuant to 2 CFR Part 200 Appendix IX, for a hospital, use the cost principles in Department of Health and Human Services, 45 CFR Part 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals". For hospital administrative requirements, use OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

For fixed amount awards, cost principles (Subpart E) do not apply.

2. If this contract is funded entirely from STATE funds, and if there are no specific administration and allowable costs requirements applicable, CONTRACTOR shall adhere to the applicable principles in "1" above.

3. The CONTRACTOR shall comply with the following grant requirements regarding audits.

a) If the contract is funded from federal awards, and the CONTRACTOR expends \$750,000 or more (or the amount per the current federal regulations 2 CFR Part 200 as revised, which is scheduled to be updated every 5 years) in federal awards during their fiscal year, an audit report must be submitted in accordance with Subpart F of OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

b) If this contract is funded from other than federal awards or if the contract is funded from a combination of STATE and federal awards but federal awards are less than \$750,000 (or the amount per the current federal regulations 2 CFR Part 200 as revised,

which is scheduled to be updated every 5 years), and if the CONTRACTOR expends \$750,000 or more in total annual payments from the STATE, the CONTRACTOR shall submit to the STATE after the end of the CONTRACTOR's fiscal year an audit report. The audit report shall be submitted to the STATE within thirty days after its completion but no later than nine months after the end of the audit period. The audit report shall summarize the business and financial transactions of the CONTRACTOR. The report shall be prepared and certified by an independent accounting firm or other accounting entity, which is demonstrably independent of the administration of the program being audited. Audits performed of the CONTRACTOR's records shall be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States covering financial audits. This audit requirement may be met through entity-wide audits, coincident with the CONTRACTOR's fiscal year, as described in OMB, 2 CFR, Chapter I, Chapter II, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Reports, disclosures, comments and opinions required under these publications should be so noted in the audit report.

4. For audit reports that are not received by the dates due, the following steps shall be taken:

a) If the audit report is one or more days late, voucher payments shall be held until a compliant audit report is received.

b) If the audit report is 180 days or more late, the STATE shall terminate all active contracts, prohibit renewal of those contracts and prohibit the execution of future contracts until all outstanding compliant audit reports have been submitted.

I. The CONTRACTOR shall accept responsibility for compensating the STATE for any exceptions which are revealed on an audit and sustained after completion of the normal audit procedure.

J. The STATE, its employees, representatives and designees, shall have the right at any time during normal business hours to inspect the sites where services are performed and observe the services being performed by the CONTRACTOR. The CONTRACTOR shall render all assistance and cooperation to the STATE in making such inspections. The surveyors shall have the responsibility for determining contract compliance as well as the quality of service being rendered.

K. The CONTRACTOR has an affirmative duty to take prompt, effective, investigative and remedial action where it has actual or constructive notice of discrimination in the terms, conditions or privileges of employment against (including harassment of) any of its employees by any of its other employees, including managerial personnel, based on race, creed, color, sex, national origin, age, disability, sexual orientation or marital status.

L. The CONTRACTOR shall not discriminate on the basis of race, creed, color, sex, national

origin, age, disability, sexual orientation or marital status against any person seeking services for which the CONTRACTOR may receive reimbursement or payment under this AGREEMENT

M. The CONTRACTOR shall comply with all applicable federal, State and local civil rights and human rights laws with reference to equal employment opportunities and the provision of services.

N. Unless the CONTRACTOR is a political sub-division of New York State, the CONTRACTOR shall provide proof, completed by the CONTRACTOR's insurance carrier and/or the Workers' Compensation Board, of coverage for:

1. Workers' Compensation, for which one of the following is incorporated into the Econtract under the Contract Package Tool in the Grants Gateway or as Attachment E-1 in the paper based contract:

a) **CE-200** -- Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

b) **C-105.2** -- Certificate of Workers' Compensation Insurance. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the **U-26.3**; OR

c) **SI-12** -- Certificate of Workers' Compensation Self-Insurance, OR **GSI-105.2** -- Certificate of Participation in Workers' Compensation Group Self-Insurance

2. Disability Benefits coverage, for which one of the following is incorporated into the Econtract under the Contract Package Tool in the Grants Gateway or as Attachment E-2 in the paper based contract:

a) **CE-200**, Certificate of Attestation For New York Entities With No Employees And Certain Out Of State Entities, That New York State Workers' Compensation And/Or Disability Benefits Insurance Coverage Is Not Required; OR

b) **DB-120.1** -- Certificate of Disability Benefits Insurance OR

c) **DB-155** -- Certificate of Disability Benefits Self-Insurance

O. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with any breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.

P. All products supplied pursuant to this agreement shall meet local, state and federal regulations, guidelines and action levels for lead as they exist at the time of the State's acceptance of this contract.

Q. All bidders/contractors agree that all state funds dispersed under this bid/contract will be bound by the terms, conditions, obligations and regulations promulgated or to be promulgated by the Department in accordance with E.O. 38, signed in 2012, governing restrictions on executive compensation.

R. The CONTRACTOR shall submit to the STATE *monthly* voucher claims and reports of expenditures on such forms and in such detail as the STATE shall require. The CONTRACTOR shall submit vouchers to the State's designated payment office located in the:

Refer to Attachment D, special payment instructions.

S. If the CONTRACTOR is eligible for an annual cost of living adjustment (COLA), enacted in New York State Law, that is associated with this grant AGREEMENT, payment of such COLA shall be made separate from payments under this AGREEMENT and shall not be applied toward or amend amounts payable under Attachment B of this Agreement.

Before payment of a COLA can be made, the STATE shall notify the CONTRACTOR, in writing, of eligibility for any COLA. The CONTRACTOR shall be required to submit a written certification attesting that all COLA funding will be used to promote the recruitment and retention of staff or respond to other critical non-personal service costs during the State fiscal year for which the cost of living adjustment was allocated, or provide any other such certification as may be required in the enacted legislation authorizing the COLA.

T. Certification Regarding Environmental Tobacco Smoke: Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this AGREEMENT, the CONTRACTOR certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The CONTRACTOR agrees that it will require that the language of this certification be included in any subawards which contain provisions for children's services and that all subrecipients shall certify accordingly.

U. Pursuant to the Master Contract's Standard Terms and Conditions, I. (General Provisions); J. (Notices), such notices shall be addressed as follows or to such different addresses as the parties may from time to time designate:

State of New York Department of Health

Name: Wendy Gould
Title: Assistant Director, Bureau of Cancer Prevention and Control
Address: Riverview Center, 150 Broadway Suite 350, Albany, NY 12204
Telephone Number: (518) 474-1222
Facsimile Number: (518) 473-0462
E-Mail Address: canserv@health.ny.gov

Vendor/Grantee

Vendor/Grantee notices shall be addressed to the Executive Director at the address listed within "Contractor Primary Mailing Address" on Page 1 of 2, Master Grant Contract, Face Page.

Part B. Program Specific Clauses

Additional Department of Health program specific clauses follow in Attachment A-1 Part B.

ATTACHMENT A-1
AGENCY AND PROGRAM SPECIFIC CLAUSES
Part B. Program Specific Clauses

New York State Department of Health

Department of Health Program Name: Bureau of Cancer Prevention and Control
Center for Community Health

Initiative Name: Cancer Prevention in Action

A. For Agreements under Which Contractors Receive Reimbursement from the State for all or a portion of meeting costs: **Healthy Meeting Guidelines-** By signing this AGREEMENT, the CONTRACTOR certifies that it will comply with the Departments' requirements for healthy meetings when the State is reimbursing for all or a portion of the meeting costs. The Department reserves the right to review the site, menu and agenda so that the State can ensure the nutrition, physical activity, sustainability and tobacco-free guidelines are met. The Healthy Meeting Guidelines and frequently asked questions can be accessed at: <http://www.health.ny.gov/funding/#reli>.

B. Refusal of Funds from Tobacco-related Entities- By signing this AGREEMENT, the CONTRACTOR certifies that it has a written policy prohibiting any affiliationⁱ with a tobacco company or tobacco product manufacturerⁱⁱ including receipt of gifts, grants, contracts, financial support and in-kind support, and other relationships. CONTRACTOR certifies that no not-for profit subcontractors receiving funding through this AGREEMENT for work instrumental to achieving the goals and objectives of the grant has any affiliation with a tobacco company or tobacco product manufacturer. More information regarding tobacco-free requirements, including frequently asked questions, can be found at: <http://www.health.ny.gov/funding/#reli>.

i Affiliation:

- being employed by or contracted to any tobacco company, association or any other agents known by you to be acting for tobacco companies or associations;
- receiving honoraria, travel, conference or other financial support from any tobacco company, association or any other agents known by you to be acting for or in service of tobacco companies or associations;
- receiving direct or indirect financial support for research, education or other services from a tobacco company, association or any agent acting for or in service of such companies or associations, and;
- owning a patent or proprietary interest in a technology or process for the consumption of tobacco or other tobacco use related products or initiatives.

ii Tobacco company or tobacco product manufacturer: any person, corporation or entity, including any repacker or relabeler, who:

- manufactures, fabricates, assembles, processes, or labels a tobacco product; or
- imports a finished tobacco product for sale or distribution in New York State.

C. Materials Review- The CONTRACTOR shall obtain review and written approval from the State prior to publication, presentation or use of all MATERIALS developed under or in the course of performance this AGREEMENT. MATERIALS are defined as; "educational programming" (webinars, seminars, conferences, presentations, trainings, one-on-one or group educational sessions), "educational materials" (brochures, flyers, posters bookmarks, etc.) and "promotional materials" (radio, television, newspaper, billboard, digital banner ads, Facebook and/or Twitter messages, earned media, etc.), within the Bureau of Cancer Prevention and Control Contractor Educational Material Review Guidance (to be provided upon contract execution). Any Materials developed by the CONTRACTOR under or in the course of performing this AGREEMENT must contain the appropriate acknowledgement as listed in the

Bureau of Cancer Prevention and Control Contractor Educational Material Review Guidance. CONTRACTOR shall obtain prior written approval of the STATE for any publication or use of the Cancer Services Program logo, as per the CSP Operations Manual. Expenditure of funds prior to receipt of express, written approval from the State is done at the contractor's risk.

D. Extended Vacancies - The CONTRACTOR is responsible for ensuring coverage of vacancies and/or prompt hiring to fill vacant required positions and functions in a timely manner as needed to ensure that programmatic work is completed and all contractual obligations are met. Extended vacancies which negatively impact the contractor's ability to fulfill contractual obligations may result in contract termination. Extended vacancies are any such vacancies that are beyond routine, time off and which have an impact on implementation of required scope of work, staffing and functions, contractual work plan implementation and budgeted expenditures. Such vacancies will be assessed by the STATE on a case-by-case basis to determine their impact on contractual obligations and contractors may be required to provide proof of short-term and long-term coverage plans.

ATTACHMENT B-1 EXPENDITURE BASED BUDGET
SUMMARY

PROJECT NAME:

Community Cancer Prevention in Action Grant of Oneida, Madison, and Herkimer Counties

CONTRACTOR SFS PAYEE NAME:

ONEIDA COUNTY OF

CONTRACT PERIOD:

From: 10/01/2018
To: 09/30/2019

1. Personal Services	2. Non Personal Services	GRANT FUNDS	MATCH FUNDS	MATCH %	OTHER FUNDS	TOTAL
a) Salary		\$91,179.91	\$0.00	0 %	\$0.00	\$91,179.91
b) Fringe		\$49,875.41	\$0.00	0 %	\$0.00	\$49,875.41
	Subtotal	\$141,055.32	\$0.00	0 %	\$0.00	\$141,055.32
a) Contractual Services		\$67,500.00	\$0.00	0 %	\$0.00	\$67,500.00
b) Travel		\$3,195.46	\$0.00	0 %	\$0.00	\$3,195.46
c) Equipment		\$0.00	\$0.00	0 %	\$0.00	\$0.00
d) Space/Property & Utilities		\$0.00	\$0.00	0 %	\$0.00	\$0.00
e) Operating Expenses		\$13,249.22	\$0.00	0 %	\$0.00	\$13,249.22
f) Other		\$0.00	\$0.00	0 %	\$0.00	\$0.00
	Subtotal	\$83,944.68	\$0.00	0 %	\$0.00	\$83,944.68
	TOTAL	\$225,000.00	\$0.00	0 %	\$0.00	\$225,000.00

ATTACHMENT B-1 EXPENDITURE BASED BUDGET
PERSONAL SERVICES DETAIL

POSITION TITLE		ANNUALIZED SALARY PER POSITION	STANDARD WORK WEEK (HOURS)	PERCENT OF EFFORT FUNDED	NUMBER OF MONTHS FUNDED	TOTAL
1 FT Program Coordinator (PC)- To Be Hired (TBH)		\$44,483.78	35	100	12	\$44,483.78
1 FT Outreach Worker (OW)- Robin Potenski		\$46,696.13	35	100	12	\$46,696.13
					Subtotal	\$91,179.91
TOTAL FRINGE						\$49,875.41
PERSONAL SERVICES TOTAL						\$141,055.32

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
 NON-PERSONAL SERVICES DETAIL

CONTRACTUAL SERVICES - TYPE/DESCRIPTION	TOTAL
Full service marketing, advertising, and promotional items-TBD- Possibly Foster/Martin	\$67,500.00
TOTAL	\$67,500.00

ATTACHMENT B-1 - EXPENDITURE BASED BUDGET
NON-PERSONAL SERVICES DETAIL

TRAVEL - TYPE/BUDGET DESCRIPTION	TOTAL
In-State Travel	\$3,195.46
TOTAL	\$3,195.46

Contract Number: # DOH01-C33741GG-3450000

Page 4 of 10, Attachment B-1 - Expenditure Based Budget

EQUIPMENT - TYPE/DESCRIPTION	TOTAL
TOTAL	

SPACE/PROPERTY EXPENSES, RENT - TYPE/DESCRIPTION	TOTAL
TOTAL	

SPACE/PROPERTY EXPENSES: OWN - TYPE/DESCRIPTION	TOTAL
TOTAL	

TYPE/DESCRIPTION OF UTILITY EXPENSES	TOTAL
TOTAL	

OPERATING EXPENSES - TYPE/DESCRIPTION	TOTAL
Office Supplies	\$1,537.00
Educational Materials	\$825.00
Program Materials	\$10,887.22
TOTAL	\$13,249.22

OTHER - TYPE/DESCRIPTION	TOTAL
TOTAL	

ATTACHMENT C - WORK PLAN
SUMMARY

PROJECT NAME: Community Cancer Prevention in Action Grant of Oneida, Madison, and Herkimer Counties

CONTRACTOR SFS PAYEE NAME: ONEIDA COUNTY OF

CONTRACT PERIOD: From: 10/01/2018

To: 09/30/2019

Project Summary: A high-level overview of the project, including the overall goal and desired outcomes.

This project will employ the following strategies: 1) engage community members and local stakeholders, 2) leverage community resources, 3) educate community leaders and the public, and 4) mobilize community members and organizations, that will lead to the following cancer prevention and control outcomes:

- Decrease exposure to ultraviolet (UV) radiation to reduce the risk of skin cancer among priority populations (such as youth, minors, employees in outdoor occupational settings, etc.) through implementation of evidence based, recommended interventions; and,
- Increase cancer screening rates for colorectal, breast and cervical cancers through worksite (employer) paid time off policies.

As part of this project, educational activities to promote other key cancer prevention, early detection and control priorities identified in the NYS Comprehensive Cancer Control Plan will also occur. This will include education and promotion about the need for human papillomavirus (HPV) vaccine as a key strategy to prevent HPV-related cancers. Educational activities may be targeted to the general public, health care providers, and/or targeted priority populations, depending on the priority topic.

The following are five-year objectives this project hopes to meet or exceed by September 30, 2023:

1. At least four municipalities will adopt policies to ban the use of tanning devices by minors under 18.
2. Increase the adoption and use of sun safety policies/practices in at least seven community settings such as colleges, childcare facilities, outdoor recreation/tourism locations, and outdoor worksites.
3. Increase the adoption and use of paid leave policies to obtain breast, cervical and colorectal cancer screenings in at least 10 organizations.
4. Increase by at least seven, the number of community education interventions for adolescents, health care providers and parents to support an increase in HPV vaccination.
5. Assist with promotion and education of other cancer prevention priorities as directed by the Department.

Contract Number: # DOH01-C33741GG-3450000

ATTACHMENT C - WORK PLAN
DETAIL

Objective

- 1 Increase the adoption of policies that restrict the use of tanning devices

Tasks

- 1 Community Education: Share and disseminate information about skin cancer - Staff will attend or provide information to at least (4) community organizations, venues, or events to distribute information about skin cancer.

The Program Coordinator will provide at least one information session per quarter to area health coalitions, colleges, and partner organizations in Oneida, Herkimer, and Madison Counties. The intended audience will be professionals, and also students at colleges. Brochures on UV safety and packets of sunscreen will be distributed after information sessions. The Program Coordinator will visit annually with NYS legislators to educate and inform on skin cancer, indoor tanning, and/or UV safety.

Performance Measures

- 1 Community venues/events where information is distributed - Increase the adoption of policies that restrict the use of tanning devices by all individuals under 18 years of age in municipalities through at least three community education tasks, two community mobilization tasks, and at least one educating governmental decision maker's task(s) by September 30, 2019
A. Skin cancer information will be shared with or disseminated to four (4) community organizations, venues, and/or events by September 20, 2019.
B. The Program Coordinator will provide at least one information session per quarter to area health coalitions, colleges, and partner organizations in Oneida, Herkimer and Madison Counties.

Tasks

- 2 Community Education: Paid Media - A. Develop and submit at least eight paid media to promote skin cancer awareness, limiting indoor tanning and/or UV safety information through radio, TV, billboards, newspapers, and strategic partner's newsletters (approximately 2 per quarter).

B. The Program Coordinator and/or outreach worker will create a targeted outreach plan that includes each specific population (parents, teens, childcare providers, summer recreation program coordinators, colleges, and construction and utility workers).

Performance Measures

- 1 Paid media about outdoor tanning and/or UV safety - A. At least eight instances of paid media about indoor tanning and/or UV safety garnered by September 20, 2019 (approximately two per quarter).
B. Comprehensive marketing plan that includes paid media tailored to each target population (parents, teens, childcare providers, summer recreation program coordinators, colleges, and construction and utility workers).

Tasks

ATTACHMENT C - WORK PLAN
DETAIL

3 Community Mobilization: Identify Community Champions - A. Schedule four meetings with community and strategic partners to identify at least two community champions.

B. The Program Coordinator and/or outreach worker will schedule four meetings with area health coalitions, colleges, and partner organizations in Oneida, Herkimer, and Madison Counties to identify community champions focused on each target population (parents, teens, childcare providers, summer recreation program coordinators, colleges, and construction and utility workers). Professionals with a policy background will be strongly encouraged to participate. Guidelines and roles for a community champion will be developed and shared.

Performance Measures

1 Community Champions Identified - A. A minimum of two community champions will be identified by May 31, 2019.

B. The Program Coordinator and/or Outreach Worker will talk to meeting participants regarding serving as a community champion and will follow-up in writing within 30 days of said meeting. Guidelines and roles for community champions will be developed prior to meetings.

Tasks

4 Community Mobilization: High School and College Engagement - A. Schedule at least two skin cancer, indoor tanning, and/or UV safety mobilization activities for high school or college students.

B. The Program Coordinator and/or outreach worker will work with representatives (such as health offices, school nurses, health teachers, wellness club advisors, etc.) from area high schools and colleges to identify community mobilization activity for their community (such as themed walks, debates, fundraising efforts, social media champions, etc.).

Performance Measures

1 High School and College Community Mobilization - A. A minimum of two community mobilization activities will be coordinated by September 30, 2019.

B. Prior to December 31, 2018, the Program Coordinator and/or outreach worker will contact key stakeholders at high schools and colleges (such as health offices, school nurses, health teachers, wellness club advisors, etc.) regarding skin cancer, indoor tanning, and/or UV safety to discuss community mobilization events. Planning for events would begin by February 28, 2019, and event to be implemented prior to September 30, 2019.

Tasks

5 Educate Governmental Decision Makers - A. Communicate with at least three governmental decision makers to provide education about the impact of indoor tanning and/or UV policies.

B. The Program Coordinator and/or outreach worker will complete a geographic scan of municipalities and UV/Indoor tanning policies in region. Municipalities that do not have indoor tanning and/or UV policies will be the initial target group for educational efforts.

ATTACHMENT C - WORK PLAN
DETAIL

Performance Measures

- 1 Meetings and/or interactions with governmental decision makers - A. At least 3 communications with governmental decision makers about either/both indoor tanning and UV policies will occur by September 30, 2019.

B. A geographic scan of regional policies will be conducted by December 30, 2018. The staff will identify high risk communities that do not have policies within the geographic region by February 28, 2019. Communication will be targeted to government officials from high risk communities including local (town, city, and county) officials. Targeted communication via newsletters, emails, or printed materials, and/or meetings to educate community leaders will commence by March 28, 2019.

Tasks

- 6 Community Education: Garner earned media - A. Develop and submit at least four earned media attempts to promote the initiative, such as events, letters to the editor (LTSs), print and broadcast stories.
B. The Program Coordinator and Outreach Worker will pursue earned media targeted to the media through press releases, events, letters to the editor (LTSs) regarding increased adoption of sun safety policies and practices of area businesses.

Performance Measures

- 1 Earned media about indoor tanning, UV policies implemented and/or skin cancer - A. At least four instances of earned media about indoor tanning, UV policies implemented, and/or skin cancer garnered by September 30, 2019.
B. The date of earned media in relation to date of pre- and - post-assessment at recruited organizations (within 30 days of event).

ATTACHMENT C - WORK PLAN
DETAIL

Objective

2 Increase the adoption of policies and practices which promote sun safety

Tasks

1 Identify community target agencies - A. An environmental scan of the community to better understand and identify potential targets for community change will be performed
B. The Program Coordinator and/or outreach worker will complete an environmental scan of the communities by utilizing the tool provided by the Department. Data analysis will be completed. Identification of targeted agencies will be completed within one month of data analysis.

Performance Measures

1 Community target agencies identified - A. One environmental scan completed and 3 target agencies identified by February 19, 2019.
B. The environmental scan will be completed by December 30, 2018. Data analysis will be completed by January 30, 2019 and targeted plan will be created by February 19, 2019.

Tasks

2 Complete Pre-Assessment Tool(s) - A. Assess site-level policy and practices supportive of sun safety and create a site-specific action plan prior to initiating work by completing a pre-assessment tool for each of three recruited organizations.

B. The Program Coordinator and/or outreach worker will meet with each of the three recruited organizations regarding pre-assessment findings and discuss recommended action plan. Organizations that complete the pre-assessment and agree to an action plan may be provided with materials to assist with the location becoming more sun safe or providing sun protective materials for participants such as sunscreen dispensers and refills, kids bucket hats, sunglasses, and adult hats.

Performance Measures

1 Organizations with completed pre-assessment tool - A. Pre-assessment tool completed by September 30, 2019 for each of the three target organizations recruited
B. The Program Coordinator and/or outreach worker will meet with each of the three recruited organizations within 45 days of completion of pre-assessment tool to discuss findings and action plan

Tasks

3 Complete Post-Assessment Tool(s) - A. Upon completion of work identified in their action plan, assess site-level policy and practices supportive of sun safety by completing a post-assessment tool for each of the three recruited organizations.
B. The Program Coordinator and/or outreach worker will meet with each of the three recruited organizations regarding post-assessment findings. Organizations that follow the given action plan (protocol to be developed) will be deemed a "sun smart location" and provided with a decal to display on their door or window. They may also be offered a shade structure to further improve sun safety measures at their organization. Organizations that work with youth will be provided with a copy of EPA Sunwise curriculum as a means to sustain sun safety education and efforts.

ATTACHMENT C - WORK PLAN

DETAIL

Performance Measures

- 1 Organizations with completed post-assessment tool - A. Post-assessment tool completed by September 30, 2019 for each of the three recruited organizations that has completed their action plan
B. The Program Coordinator and/or outreach worker will meet with each of the three recruited organizations within 45 days of completion of action plan

Tasks

- 4 Community Education: Garner Earned Media - A. Develop and submit at least four earned media attempts to promote the initiative such as press releases and events, letters to the editor (LTEs), print and broadcast stories.
B. Program Coordinator and Outreach Worker will pursue earned media targeted to the media through press releases submitted by partners, coalitions or colleges regarding events, or letters to the editor, and print and broadcast stories within 30 days of each event.

Performance Measures

- 1 Earned media about indoor tanning, UV policies implemented and/or skin cancer - A. At least four instances of earned media about indoor tanning, UV policies implemented, and/or skin cancer garnered by September 30, 2019.
B. The date of earned media in relation to date of pre- and post-assessment at recruited organizations (within 30 days of event).

Tasks

- 5 Community Education: Paid Media - Community Education: Paid Media
A. Develop and submit at least three paid media to promote skin cancer awareness, indoor tanning and/or UV safety information, and increased policy implemented to the community such as radio, TV, billboards, newspapers, and strategic partner's newsletters.
B. The Program Coordinator and/or outreach worker will create a targeted outreach plan regarding increased policy implemented targeted at the community members in the geographic region impacted by policy by October 30, 2018.

Performance Measures

- 1 Paid media about increased policy for indoor tanning and/or UV safety - A. At least three instances of paid media about limited indoor tanning and/or UV safety garnered by September 20, 2019 (Target one per quarter commencing October 2018).
B. Targeted marketing plan that includes paid media tailored to each geographic target population impacted by policy.

Tasks

- 6 Community Mobilization: Identify Community Champions - A. Schedule four meetings with community and strategic partners to identify at least two community champions.
B. The Program Coordinator and/or outreach worker will schedule four meetings with area health coalitions, colleges, and partner organizations in Oneida, Herkimer and Madison Counties to identify community champions focused on increased adoption of policies that promote UV safety. Professionals with a policy background will be strongly encouraged to participate. Guidelines for a community champion will be developed and shared.

ATTACHMENT C - WORK PLAN
DETAIL

Performance Measures

- 1 Community Champions - A. A minimum of two community champions will be identified by May 31, 2019
B. The Program Coordinator and/or outreach worker will talk to meeting participants regarding serving as a community champion and will follow-up in writing within 30 days of said meeting. Guidelines for a community champion will be developed and shared.

Tasks

- 7 Community Mobilization: High School and College Engagement - A. Schedule at least two skin cancer, indoor tanning and/or UV safety, and policy mobilization activities for high school or college students.
B. The Program Coordinator and/or Outreach Worker will work with representatives (such as health offices, nurse's offices, health and/or government teachers, wellness club advisors, etc.) from area high schools and colleges to identify a community mobilization activity for their community (such as themed walks, debates, fundraising efforts, social media campaigns, etc.).

Performance Measures

- 1 High School and College Community Mobilization - A. A minimum of two community mobilization activities will be coordinated by September 30, 2019
B. Prior to December 31, 2018, the Program Coordinator and/or outreach worker will contact key stakeholders at high schools and colleges (such as health offices, nurse's offices, health and/or government teachers, wellness club advisors, etc.) regarding skin cancer, indoor tanning and/or UV safety, and policy to discuss community mobilization events. Planning for events would begin by February 28, 2019 to be implemented prior to September 30, 2019.

Tasks

- 8 Educate Organizational Decision Makers - A. Communicate with at least two organizational decision makers to provide education about the impact of indoor tanning and/or UV policies.
B. The Program Coordinator will complete an assessment of related organizations and target those that impact high risk populations (such as refugee center, child care consortium, construction and/or utility specific organizations, etc.).

Performance Measures

- 1 Meetings and/or interactions with organization decision makers - A. At least two communications with organization decision makers about either both indoor tanning and UV policies will occur by September 30, 2019
B. An assessment of organization/industry policies will be conducted by December 30, 2018. The staff will identify high risk communities that do not have policies within the geographic region by February 28, 2019. Targeted communication efforts and or meetings to educate organization leaders will commence by March 28, 2019.

Tasks

ATTACHMENT C - WORK PLAN

DETAIL

9

Educate Governmental Decision Makers - A. Communicate with at least three governmental decision makers to provide education about the impact of indoor tanning and/or UV policies.

B. The Program Coordinator will complete an assessment of municipalities and UV/Indoor tanning policies in region. Municipalities that encompass the three-recruited organizations that implemented policy will be initial target group for educational efforts.

Performance Measures

1 Meetings and/or interactions with governmental decision makers - A. At least two communications with organization decision makers about either/both indoor tanning and UV policies will occur by September 30, 2019

B. An assessment of organization/industry policies will be conducted by December 30, 2018. The staff will identify high risk communities that do not have policies within the geographic region by February 28, 2019. Targeted communication efforts and or meetings to educate organization leaders will commence by March 28, 2019.

ATTACHMENT C - WORK PLAN
DETAIL

Objective

3 Increase the adoption of policies for paid leave for cancer screenings

Tasks

- 1 Identify community target audiences - A. An environmental scan of the community to better understand and identify potential targets for community change will be performed.
B. Utilizing the environmental scan tool provided by the Department, the Program Coordinator and/or outreach worker will complete the environmental scan by December 15, 2018. A review and analysis of the finds will be completed by December 30, 2018 and the identification of potential targets for community change will be completed by January 15, 2019.

Performance Measures

- 1 Community target agencies identified - A. One environmental scan completed by January 15, 2019 and five target agencies identified.
B. Utilizing the environmental scan tool provided by the Department, the Program Coordinator and/or outreach worker will complete the environmental scan by December 15, 2018. A review and analysis of the finding will be completed by December 30, 2018 and the identification of five potential targets for community change will be completed by January 15, 2019.

Tasks

- 2 Complete pre-assessment tool(s) - Complete pre-assessment tool(s)
A. Assess site-level policy and practices supportive of paid leave and create a site-specific action plan prior to initiating work by completing a pre-assessment for each of the five recruited organizations.
B. Utilizing the pre-assessment tool provided by the Department, the Program Coordinator and/or outreach worker will complete a pre-assessment for each of the five target agencies. A target of two pre-assessments per month will be completed for all five target agencies by May 31, 2019.

Performance Measures

- 1 Organizations with completed pre-assessment tool - A. Pre-Assessment tool completed by May 31, 2019 for each of five target organizations recruited
B. Utilizing the pre-assessment tool provided by the Department, the Program Coordinator and/or outreach worker will complete a pre-assessment for each of the five target agencies. A target of two pre-assessments per month will be completed for all five target agencies to ensure completion by May 31, 2019

Tasks

- 3 Community Education: Disseminate information about paid leave - A. Staff will attend or provide information to at least three community organizations, venues, or events to distribute information about paid leave.
B. The Program Coordinator and/or outreach worker will partner with community Chambers of Commerce to identify at least three community organizations and/or businesses, venues, or events to distribute information about paid leave throughout the geographic region. Registration for attendance will be completed by the deadline identified by the community organizations and/or businesses, venues, or event.

ATTACHMENT C - WORK PLAN
DETAIL

Performance Measures

- 1 Community Venues/Events where information is distributed - A. Paid leave information will be shared or disseminated to three community organizations, venues, and/or events by September 30, 2019.
B. The Program Coordinator and/or outreach worker will partner with community Chambers of Commerce to identify at least three community organizations and/or businesses, venues, or events to distribute information about paid leave throughout the geographic region. Registration for attendance will be completed by the deadline identified by the community organizations and/or businesses, venues, or event. A target of one per quarter will be completed.

Tasks

- 4 Community Education: Build relationships with media - A. Identify two news reporters and media personalities to build relationships with so that cancer prevention and control messages and information can be disseminated.
B. The Program Coordinator will generate a list of news reporters and media personalities that serve the geographic region. An assessment of their previous involvement with cancer related community events and promotion will be completed and be utilized to rank and order a list of target reporters/personalities. Contact will be made with the top five on the targeted media list via letter, email and phone outreach.

Performance Measures

- 1 Relationships with reporters and media personalities - A. Two relationships will be built with reporters and media personalities by September 30, 2019.
B. The Program Coordinator will generate a list of news reporters and media personalities that serve the geographic region to be completed by January 30, 2019. An assessment of their previous involvement with cancer related community events and promotion will be completed and utilized to rank and order a list of target reporters/personalities by February 28, 2019. Contact will be made with the top five on the targeted media list via letter, email, and phone outreach during March 2019 to establish a relationship. Monthly follow-up will be conducted to maintain and strengthen relationship with reporters/media personalities.

Tasks

- 5 Community Education: Garner earned media - A. Develop and submit at least two earned media attempts to promote the initiative, such as press releases and events, letters to the editor (LTES), print and broadcast stories.
B. The Program Coordinator and/or outreach worker will pursue earned media targeted to the media through press releases, events, letters to the editor (LTSS) regarding promoting paid leave for cancer screening, organizations that have implemented paid leave policies, and/or the importance of paid leave policies.

Performance Measures

- 1 Earned media about paid leave for cancer screenings - A. Develop and submit at least two earned media attempts to promote the initiative, such as press releases and events, letters to the editor (LTES), print and broadcast stories
B. The Program Coordinator and/or outreach worker will pursue earned media targeted to the media through press releases, events, letters to the editor (LTSS) regarding promoting paid leave for cancer screening, organizations that have implemented paid leave policies, and/or the importance of paid leave policies

ATTACHMENT C - WORK PLAN
DETAIL

Tasks

- 6 Community Mobilization: Identify community champions - A. Utilize a sphere of influence tool to ascertain whether partners, providers, and community members know any legislators and/or key stakeholders in their region politically or socially
B. The Program Coordinator and/or outreach worker will utilize the Sphere of Influence Tool provided by the Department by March 28, 2019. An analysis will be completed and identification of five potential champions will be done by May 31, 2019.

Performance Measures

- 1 Potential Champions - A. Identify at least five potential champions using a sphere of influence tool by May 31, 2019
B. The Program Coordinator and/or outreach worker will utilize the Sphere of Influence Tool provided by the Department by March 28, 2019. An analysis will be completed and identification of five potential champions will be done by May 31, 2019.

Tasks

- 7 Community Mobilization: Mobilize a champion - A. Engage at least one champion in at least one "community mobilization" activity e.g. educate and equip champion with key messages and other information to garner earned media coverage, educate/mobilize networks, and/or communicate with decision makers.
B. The Program Coordinator and/or outreach worker will identify and discuss opportunities for community mobilization with champions to determine best approach to community mobilization. Mobilization efforts will target business and non-profit organizations.

Performance Measures

- 1 Mobilization Activity - A. At least one community mobilization activity will occur by the identified champion by September 30, 2019
B. The Program Coordinator and staff will identify and discuss opportunities for community mobilization with champions to determine best approach to community mobilization. Mobilization efforts will target business and non-profit organizations.

Tasks

- 8 Educate Organizational Decision Makers - A. Communicate with at least two organizational decision makers to provide education about the impact of paid leave policies for cancer screening.
B. The Program Coordinator and/or outreach worker will complete an assessment of related organizations by December 30, 2018. An analysis of results will be conducted and identification of target organizations will be completed by February 28, 2019. Target organizations could include: Childcare consortium, and construction and/or utility specific organizations.

Performance Measures

- 1 Meetings and/or interactions with organization decision makers - A. At least two communications with organization decision makers about Paid Leave policies will occur by September 30, 2019
B. An assessment of organization/industry policies will be conducted by December 30, 2018. The staff will identify high risk organizations that do not have policies within the geographic region by February 28, 2019. Targeted communication efforts and or meetings to educate organization leaders will commence by March 28, 2019.

ATTACHMENT C - WORK PLAN
DETAIL

Tasks

9 Educate Governmental Decision Makers: Office Visits - A. Conduct at least one office visit annually to educate governmental decisions maker about cancer prevention and control issues.

B. The Program Coordinator will meet with, at least one, government official from the geographic region to discuss cancer prevention and control issues. Request for meeting will be made by January 31, 2019 with meetings scheduled prior to September 30, 2019. As the local county governments within the geographic region have paid leave policies, efforts will target smaller municipalities such as city officials and town supervisors.

Performance Measures

1 Office visit with governmental decision maker - A. One office visit completed by September 30, 2019

B. The Program Coordinator will meet with at least one government official from the geographic region to discuss cancer prevention and control issues. Request for meeting will be made by January 31, 2019 with meetings schedule prior to September 30, 2019

Tasks

10 Educate Governmental Decision Makers: Communication - A. Communicate at least five times (approximately once per month beginning in April 2019) with governmental decision makers to keep them informed about cancer prevention and control activity policy, system, and environmental change initiatives in NYS.
B. The Program Coordinator and/or outreach worker will communicate with governmental decision makers via newsletters, emails, presentations and/or meetings regarding paid leave initiatives specific to their region as well as NYS initiatives. Utilizing information from environmental scan, updated statistics, control activity policy, and other relevant information, targeted communication will be developed. This effort will include communication to county officials, local municipalities and regional federal government representatives.

Performance Measures

1 Communication with governmental decision makers - A. At least five instances of communicating with governmental decision makers between April 1, 2019 and September 30, 2019

B. The Program Coordinator and/or outreach worker will communicate with governmental decision makers via newsletters, emails, presentations and/or meetings regarding paid leave initiatives specific to their region as well as NYS initiatives. This effort will include communication to county officials, local municipalities and regional state and federal government representatives.

ATTACHMENT C - WORK PLAN
DETAIL

Objective

4 Increase community knowledge about the HPV vaccine

Tasks

- 1 Community Education Screen the Someone You Love Documentary - A. Co-host/sponsor at least two screenings of "Someone You Love", an 80 minute documentary, Screenings should be at no-charge to viewers and feature a panel discussion comprised of at least three experts who address issues raised in the film and discuss relevance to the applicant's community.
B. The Program Coordinator and/or Outreach Worker will identify contacts at area high schools and colleges (such as: health offices, wellness coordinators, academic program directors, student organization advisors) to co-host the event. Contact will be made with the offer to coordinate the educational event free to the campus community, parent organizations, and high school students. Event dates will be identified and promotional campaign created. Three experts will be identified via area healthcare network and contact will be made to invite them to serve on the panel.

Performance Measures

- 1 Film screenings of Someone You Love - A. Two film screenings with panel discussion completed by September 30, 2019.
B. The Program Coordinator and/or Outreach Worker will identify contacts at area high schools and colleges (such as: health offices, wellness coordinators, academic program directors, student organization advisors) to co-host the event prior to December 30, 2019. Contact will be made with the offer to coordinate the educational event free to the campus community, parent organizations, and high school students by January, 20, 2019. Event dates will be identified and promotional campaign created. Three experts will be identified via area healthcare network and contact will be made to invite them to serve on the panel.

Tasks

- 2 Community Education: Garner earned media - A. Develop and submit at least three earned media attempts to promote the initiative, such as press releases and events, letters to the editor (LITEs), print and broadcast stories.
B. The Program Coordinator and/or Outreach Worker will create earned media plan to includes submitting attempts for earned media such as: promotion 20 days prior to film screenings, press release corresponding with cervical cancer awareness month, and other relevant activities.

Performance Measures

- 1 Earned media about support for HPV vaccine for adolescents - A. At least three instances of earned media about the HPV vaccine for adolescents by September 30, 2019.
B. The Program Coordinator and/or Outreach Worker will create earned media plan to include submitting attempts such as: promotion 20 days prior to film screenings, press release corresponding with cervical cancer awareness month, and other relevant activities. Plan will be developed by December 30, 2019.

Tasks

ATTACHMENT C - WORK PLAN
DETAIL

3

Community Education: Paid Media - A. Develop and submit at least four paid media attempts to promote HPV information such as radio, TV, billboards, newspapers, and strategic partner newsletters (approximately one per quarter).

B. The Program Coordinator and/or outreach worker will create a targeted outreach plan that includes paid media tailored to each specific population (parents, teens, childcare providers, and colleges) via newsletters, school newspapers, billboards, TV and radio broadcasting.

Performance Measures

1 Paid media about HPV vaccination - A. At least four instances of paid media about HPV vaccinations by September 20, 2019 (approximately one per quarter).

B. Creation of comprehensive outreach plan that includes paid media tailored to each target population (parents, teens, childcare providers, and colleges) population (parents, teens, healthcare providers, and colleges) via newsletters, school newspapers, billboards, TV and radio broadcasting.

Tasks

4

Community Education: Healthcare Providers - A. Communicate at least four times (approximately once per quarter) with Healthcare Providers to keep them informed about HPV vaccinations.

B. The Program Coordinator and/or outreach worker will communicate with Healthcare Providers via newsletters, emails, presentations and/or meetings regarding HPV vaccinations. Utilizing information from New York Immunization Information System and other relevant information a targeted communication plan will be developed. Brochures on HPV vaccination will be offered to local providers during educational sessions.

Performance Measures

1 Communication with healthcare providers - A. At least four instances of communicating with Healthcare Providers between April 1, 2019 and September 30, 2019.

B. The Program Coordinator and/or Outreach Worker will communicate with Healthcare Providers via newsletters, emails, presentations and/or meetings regarding HPV initiatives specific to their region as well as NYS initiatives.

II. REPORTING PROVISIONS

A. Expenditure-Based Reports (select the applicable report type):

Narrative/Qualitative Report
The Contractor will submit, on a quarterly basis, not later than _____ days from the end of the quarter, the report described in Section III(G)(2)(a)(i) of the Master Contract

Statistical/Quantitative Report
The Contractor will submit, on a quarterly basis, not later than _____ days from the end of the quarter, the report described in Section III(G)(2)(a)(ii) of the Master Contract.

Expenditure Report
The Contractor will submit, on a quarterly basis, not later than 30 days after the end date for which reimbursement is being claimed, the report described in Section III(G)(2)(a)(iii) of the Master Contract.

Final Report
The Contractor will submit the final report as described in Section III(G)(2)(a)(iv) of the Master Contract, no later than _____ days after the end of the contract period.

Consolidated Fiscal Report (CFR)
The Contractor will submit the CFR on an annual basis, in accordance with the time frames designated in the CFR manual. For New York City contractors, the due date shall be May 1 of each year; for Upstate and Long Island contractors, the due date shall be November 1 of each year.

B. Progress-Based Reports

1. Progress Reports

The Contractor shall provide the report described in Section III(G)(2)(b)(i) of the Master Contract in accordance with the forms and in the format provided by the State Agency, summarizing the work performed during the contract period (See Table I below for the annual schedule).

2. Final Progress Report

Final scheduled payment will not be due until _____ days after completion of agency's audit of the final expenditures report/documentation showing total grant expenses submitted by vendor with its final invoice. Deadline for submission of the final report is _____. The agency shall complete its audit and notify vendor of the results no later than _____. The Contractor shall submit the report not later than _____ days from the end of the contract.

C. Other Reports

The Contractor shall provide reports in accordance with the form, content and schedule as set forth in Table I.

Contract Number: # DOH01-C33741GG-3450000

SPBIAL REPORTING PROVISIONS
 a. Quarterly Progress Reports: Contractors are required to submit quarterly reports that describe progress towards meeting work plan objectives and activities. Contractors will collect and submit progress report information via an on-line performance management tracking system.
 *Please note, the first progress report is due April 15, 2019 reflecting progress on activities for the first 6 months of the project period (October 1, 2018 – March 31, 2019), to allow contractors to build capacity to implement required activities.

SPBIAL REPORTING PROVISIONS
 / Routine
 Period / CPIA / Indicate if the Claim is Routine, Supplemental, Advance, or FINAL. Example: C012345 / October 2018 / CPIA
 Please use the following naming convention in the subject line on claim for payment remittance emails: Contract # / Claim
 BPCCM@health.ny.gov with a cc to: Rachel.rupright@health.ny.gov.
 Remit your monthly claim for payment and back up documentation electronically to:
 Community Cancer Prevention in Action Contract Manager
 Rachel Rupright

As per Attachment A-1 Agency and Program Specific Clauses, R, the State's designated payment office for this contract is:

III. SPECIAL PAYMENT AND REPORTING PROVISIONS

OTHER REPORT #	PERIOD COVERED	Due Date
1	10/01/2018	04/15/2019
2	04/01/2019	07/15/2019
3	07/01/2019	10/14/2019
4		
5		
6		
7		
8		
9		
10		
11		
12		

TABLE 1 - REPORTING SCHEDULE

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

Attachment M

I. General Provisions

A. The New York State Department of Health is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

B. The Contractor to the subject contract (the "Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Department of Health (the "New York State Department of Health"), to fully comply and cooperate with the New York State Department of Health in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.

C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Attachment or enforcement proceedings as allowed by the Contract.

II. Contract Goals

A. For purposes of this contract, the New York State Department of Health hereby establishes a goal of 30% for Minority and Women-Owned Business Enterprises ("MWBE") participation on any eligible expenses including subcontracted labor or services, equipment, materials, or any combined purchase of the foregoing under this contract. The goal on the eligible portion of this contract will be 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs).

B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MBWBEs found at the following internet address: <https://ny.newnyccontracts.com/>

- A. Contractors without eligible expenses as defined in Section II.A. or who are not able to meet the goal as stated in Section II.A. of this Attachment, must submit a Waiver request (Form #2) to the Department.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the New York State Department of Health shall evaluate the request and issue a written notice of acceptance or denial after the waiver has been fully processed.

V. Waivers

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan (Form #1) either prior to, or at the time of, the execution of the contract.
- B. Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Attachment.
- C. Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, New York State Department of Health shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

IV. MWBE Utilization Plan

- D. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed, (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

C. Form #4 - Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "D" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.
- 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.

C. If the New York State Department of Health, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the New York State Department of Health may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. Quarterly MWBE Contractor Compliance Report

A. Contractor is required to submit a Quarterly MWBE Contractor Compliance Report to the New York State Department of Health by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract. Data should be submitted via the online compliance system at <https://ny.newnycontracts.com>.

VII. Liquidated Damages - MWBE Participation

A. Where New York State Department of Health determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the New York State Department of Health liquidated damages.

B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the New York State Department of Health, Contractor shall pay such liquidated damages to the New York State Department of Health within sixty (60) days after they are assessed by the New York State Department of Health unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the New York State Department of Health.

ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5th Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.
ONEIDA COUNTY EXECUTIVE



PHYLLIS D. ELLIS, BSN, MS, F.A.C.H.E.
DIRECTOR OF HEALTH

ADMINISTRATION

Phone: (315) 798-6400 Fax: (315) 266-6138 Email: publichealth@ocgov.net

June 22, 2018

Anthony J. Picente, Jr., County Executive
Oneida County Office Building
800 Park Ave.
Utica, NY 13501

FN 20

18269

HEALTH & HUMAN SERVICES

Dear Mr. Picente,

WAYS & MEANS

On June 21, 2018, New York State Department of Health (NYSDOH) through BOCES awarded Snap Ed Funding to the Oneida County Health Department, for the BOCES Healthy Schools & Communities Grant. The amount of the Grant is being increased from \$77,000 to \$123,750. The additional \$46,750 is to be appropriated with \$3,715 going to salary, \$7,430 for indirect costs, \$33,105 for program materials, \$1,000 for office supplies and \$1,500 for travel.


Therefore, the Health Department is requesting the following appropriation for the 2018 fiscal year:

- To: A4010.4115 – Office Supplies – \$1,000
- To: A4010.495135 – Program Materials – \$33,105
- To: A4010.4555 – Travel – \$1,500


This appropriation will be supported by revenue in the A2282 – BOCES – Healthy Schools & Communities Grant for \$46,750.

If you have questions, please do not hesitate to contact me.

Sincerely,


Phyllis D. Ellis, BSN, MS, F.A.C.H.E.
Director of Health

Reviewed and Approved for submittal to the
Oneida County Board of Legislators by


Anthony J. Picente, Jr.
County Executive

Cc: T. Keeler, Director of Budget

Date 6-28-18

